

Exhibit 3

In The Matter Of:*Kleiner v.**Johnson & Johnson*

*(Jury Trial - Afternoon Session)**September 13, 2021*

*John J. Kurz, RMR, CRR, Official Court Reporter**City of Philadelphia**First Judicial District Of Pennsylvania**100 South Broad Street, 2nd Floor**Philadelphia, PA 19110*

<p>1 IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY 2 FIRST JUDICIAL DISTRICT OF PENNSYLVANIA 3 CIVIL TRIAL DIVISION 4 5 ELLEN KLEINER and : JANUARY TERM, 2017 6 YURY KLEINER, w/h : 7 Plaintiff(s), : 8 v. : 9 JOHNSON & JOHNSON, and : 10 JOHNSON & JOHNSON : 11 CONSUMER COMPANIES, INC., : 12 Defendant(s): : NO. 2505 13 14 MONDAY, SEPTEMBER 13, 2021 15 16 COURTROOM 653 17 CITY HALL 18 PHILADELPHIA, PENNSYLVANIA 19 20 B E F O R E : THE HONORABLE CHARLES J. CUNNINGHAM, III, 21 and a Jury 22 23 JURY TRIAL 24 (AFTERNOON SESSION) 25 26 REPORTED BY: 27 JOHN J. KURZ, RMR, CRR, CRC 28 REGISTERED MERIT REPORTER 29 CERTIFIED REALTIME REPORTER 30 CERTIFIED REALTIME CAPTIONER 31 OFFICIAL COURT REPORTER</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 3 1 A P P E A R A N C E S : (Continued) 2 3 BLANK ROME, LLP 4 BY: JAMES T. SMITH, ESQUIRE 5 BY: WILLIAM R. CRUSE, ESQUIRE 6 BY: REBECCA D. WARD, ESQUIRE 7 One Logan Square 8 Philadelphia, Pennsylvania 19103 9 T: 215-569-5500 10 Email: smith-jt@blankrome.com and 11 cruse@blankrome.com and ward@blankrome.com 12 Counsel for Defendants Johnson & Johnson 13 14 SIDLEY AUSTIN, LLP 15 BY: DEBRA E. POLE, ESQUIRE (pro hac vice) 16 BY: ERIC B. SCHWARTZ, ESQUIRE (pro hac vice) 17 BY: AMANDA BLAU, ESQUIRE 18 555 West 5th Street, Suite 4000 19 Los Angeles, California 90013 20 T: 213-896-6000 21 Email: dpole@sidley.com and eschwartz@sidley.com 22 and ablau@sidley.com 23 Counsel for Defendants Johnson & Johnson 24 25</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 2 1 A P P E A R A N C E S : 2 3 EISENBERG ROTHWEILER WINKLER EISENBERG & JECK, PC 4 BY: NANCY J. WINKLER, ESQUIRE 5 BY: TODD A. SCHOENHAUS, ESQUIRE 6 1634 Spruce Street 7 Philadelphia, Pennsylvania 19103 8 T: 215-546-6636 9 Email: Nancy@erlegal.com and Todd@erlegal.com 10 Counsel for Plaintiffs Kleiner 11 12 13 14 BEASLEY ALLEN LAW FIRM 15 BY: DAVID DEARING, ESQUIRE (pro hac vice) 16 BY: LEIGH O'DELL, ESQUIRE (pro hac vice) 17 218 Commerce Street 18 Montgomery, Alabama 36104 19 Email: 20 David.dearing@beasleyallen.com and 21 Leigh.odell@beasleyallen.com 22 Counsel for Plaintiffs Kleiner 23 24 25</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 4 1 A P P E A R A N C E S : (Continued) 2 3 Also Present: 4 Kristian Benz, Law Clerk 5 Demetrius Pavlo, Law Clerk 6 Mr. and Mrs. Kleiner 7 Melisa Bruner, Paralegal 8 Ryan Beattie, Esquire, Beasley Allen 9 Jennifer K. Emmel, Esquire, Beasley Allen 10 Michael Bagdon, Trial Technician 11 Michael Kauffmann, Trial Technician 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1	- I N D E X -					1	MR. DEARING: Yes, sir.				
2	WITNESSES:					2	Testing. Can everybody hear me?				
3	TERI LONGACRE, M.D.					3	THE COURT: It sounds fine.				
4	By Mr. Dearing					4	MR. DEARING: I'm going to lower my				
5	By Ms. Pole					5	mask because my glasses keep fogging up. I				
6						6	can't see what I'm doing.				
7	MATTHEW SANCHEZ, Ph.D.					7	Good afternoon.				
8	By Ms. Pole					8	JURY PANEL: Good afternoon.				
9	By Mr. Dearing					9	- - -				
10						10	... TERI LONGACRE, M.D., after having				
11	E X H I B I T S					11	been previously sworn, was examined and				
12	N O. P A G E N O.					12	testified as follows:				
13	P-1664	O'Brien Study: Association			27	13	- - -				
14		of Powder Use in the Genital				14	CROSS-EXAMINATION				
15		Area with Risk of Ovarian				15	- - -				
16	P-1935	Study: Paradigm Shift in the			39	16	BY MR. DEARING:				
17		Management Strategy for				17	Q. Good afternoon, Doctor.				
18		Epithelial Ovarian Cancer,				18	A. Good afternoon.				
19	P-460	Publication entitled: Ovarian			50	19	Q. So my name is David Dearing; and we've never				
20		Cancers: Evolving Paradigms in				20	met before, have we?				
21		Research and Care, published by				21	A. No, I don't think so.				
22	DX-3136	Dr. Longacre's report dated			76	22	Q. And I've never taken your deposition or				
23		11/3/2019				23	anything like that?				
24	DX-3137	PowerPoint presentation			106	24	A. No.				
25		prepared by Dr. Sanchez				25	Q. In this case, you provided three reports; do				
- KLEINER -vs- JOHNSON & JOHNSON -					Page 6	- TERI LONGACRE, M.D. (Cross) -					Page 8
1	* * *					1	you remember that?				
2	P R O C E E D I N G S					2	A. Yes. I think there was an initial and two				
3	* * *					3	supplemental. I believe so, yes.				
4	(1:48 p.m.; Afternoon Session)					4	Q. Right.				
5	* * *					5	One was provided on November 3rd,				
6	(All parties present and					6	2019; one was provided June 9th, 2020; and then				
7	participating in the following proceedings are					7	another one was provided right before trial. Do you				
8	wearing masks pursuant to First Judicial					8	remember that?				
9	District of Pennsylvania protocol.)					9	A. Yes.				
10	LAW CLERK: All rise. Court is back					10	Q. I'm just curious -- well, each report was a				
11	in session.					11	little different. And I assume that's why you were				
12	You may be seated.					12	writing new ones. But, for example, in the second				
13	COURT REPORTER: Good afternoon, Your					13	report you added a paragraph to page 4 and another				
14	Honor.					14	paragraph on page 6, and then in the third report we				
15	THE COURT: Good afternoon.					15	got right before trial, you added a whole new				
16	LAW CLERK: All rise as the jury					16	section on Dr. Godleski and your criticisms of				
17	enters.					17	Dr. Godleski.				
18	- - -					18	I'm just curious, why so many				
19	(Whereupon the jury panel entered the					19	reports? Did you just have an epiphany right before				
20	courtroom at 1:49 p.m.)					20	trial to think, oh, I should criticize Dr. Godleski?				
21	- - -					21	What's that about?				
22	LAW CLERK: You may be seated.					22	A. As you mentioned, this started way back in				
23	THE COURT: Okay. When we left off,					23	2019, and, yeah, I supplemented, edited, whatever				
24	it was about to be plaintiffs'					24	term that you -- we use. Things change over time,				
25	cross-examination, right?					25	and my thoughts on things change over time. I edit				

<p>- TERI LONGACRE, M.D. (Cross) - Page 9</p> <p>1 my chapters. That doesn't mean I had an epiphany. 2 Just over time things change. It's an updating. 3 Q. Well, why did you decide it wasn't really 4 necessary in your first two reports to put a whole 5 section criticizing Dr. Godleski and then in your 6 third report right before trial decide, oh, I better 7 add that section? 8 A. I think it was more -- just being more 9 specific, more addressing the point. There was no 10 sudden change of anything. 11 Q. Well, there was no section at all about 12 Dr. Godleski in the first two reports, so you're not 13 just changing something, you're adding a whole 14 section? 15 A. Correct. 16 Q. Is that just something you decided you thought 17 you should do right before trial? 18 A. I think the attorneys asked me to reflect more 19 on his report; and I did. That's -- I mean -- 20 Q. That's what I thought. That's where I'm going 21 with this. 22 The fact of the matter is, you're not 23 here to testify that Dr. Godleski did not find talc 24 in Ms. Kleiner's gynecologic tissue, are you? Your 25 only dispute is how it got there, right?</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 11</p> <p>1 Q. It has -- 2 A. They have state-of-the-art equipment, yes, 3 absolutely. 4 Q. It has -- 5 A. But that's not routine diagnostic technology -- 6 Q. Oh, I know. 7 A. -- that we use. And so of course I'm not 8 trained in it. I don't need to be trained in it. 9 No gynecologic pathologist needs to be trained in 10 it. But that doesn't mean that it's not a 11 technology that's used more often than not in a 12 research setting. 13 Q. Right. 14 So Stanford has a state-of-the-art 15 electron microscopy lab with scanning electron -- at 16 least a scanning electron microscope, right? 17 A. I'm sure they do. Multiple I would suspect. 18 Q. And of course we've already established, you're 19 not a talc expert, right? 20 A. That's correct, I'm not. 21 Q. You never even studied talc until Johnson & 22 Johnson came to you to be an expert witness in talc 23 litigation, right? 24 A. I don't know that I ever studied talc per se. 25 Q. Okay. And you've certainly never studied how</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 10</p> <p>1 A. Uhhh, I'm here -- well, I'm here to testify 2 about the pathology, everything that I testified 3 earlier. 4 Q. Let's get to -- I know. Let's talk about talc 5 though. 6 A. Okay. 7 Q. You're not here to say Dr. Godleski did not 8 find talc in the tissue, are you? 9 A. No. 10 Q. Okay. Because you can't refute that, can you? 11 You're not qualified to refute that? 12 A. No. 13 Q. And that's because you don't study particles in 14 tissue like he does, right? 15 A. That's correct. 16 Q. And you don't study anything with scanning 17 electron microscopy, right? 18 A. That's correct. 19 Q. And you're not even knowledgeable enough to 20 operate a scanning electron microscopy -- 21 microscope; am I right? 22 A. That's correct. 23 Q. However, Stanford Medical School, where you 24 work, has an electron microscopy lab, doesn't it? 25 A. Oh, of course. That's state of the art.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 12</p> <p>1 talc affects epithelial human tissue, right, before 2 you got involved in this litigation? 3 A. I reviewed papers, but not -- no, I have not 4 conducted scientific studies on talc and tissue. I 5 think I've already testified to that. 6 Q. And you've never published on talc, right? 7 A. That's correct. I already testified to that as 8 well. 9 Q. And you said something interesting. You said 10 I've never published on talc because talc has no 11 role in ovarian cancer. Was that your statement? 12 A. In my opinion, reading the literature, it's 13 not -- I don't believe it has a role in ovarian 14 carcinoma, correct. 15 Q. But you have read literature about talc and 16 ovarian cancer, right? 17 A. Yes. 18 Q. So you know there are hundreds of scientists 19 and pathologists just like you who have studied talc 20 and who completely disagree with you, right? 21 MS. POLE: Objection, Your Honor. 22 It's vague in terms of hundreds. 23 THE COURT: Overruled. 24 THE WITNESS: Well, there are 25 definitely scientific studies looking at talc</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 13</p> <p>1 with respect to ovarian cancer. And some 2 conclude that there is a role and some do not; 3 there definitely are. You're right. 4 BY MR. DEARING: 5 Q. I'm not talking about studies. I'm talking 6 about people. 7 A. Well, of course, people -- 8 Q. There are hundreds of scientists and 9 pathologists just like you that completely disagree 10 with your position on talc, right? 11 A. I don't know if there's hundreds, but there 12 certainly are some. 13 Q. And you're not saying all those hundreds of 14 scientists are wrong, are you? You're just saying 15 you disagree with them? 16 A. I think they're incorrect, yes. 17 Q. You're saying they're all wrong? 18 A. I think they're incorrect, yes. I think that 19 if they were correct, after the amount -- the 20 literature that's been accumulated looking at talc 21 with respect to ovarian carcinoma, that would have 22 meant thresholds where groups such as the WHO with 23 the blue books that I talked about, the American 24 Cancer Society, all of these societies would be 25 making statements about the risk of talc with</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 15</p> <p>1 succeed with that. 2 MR. DEARING: I think I'm going to 3 finish in under an hour actually, so. But 4 I'll -- I'll try to -- 5 THE COURT: An hour spent asking the 6 same question over and over again is an hour 7 misspent. 8 MR. DEARING: Okay. 9 BY MR. DEARING: 10 Q. Doctor, you've never tried to publish or have 11 anyone peer review -- have any of your peers review 12 the testimony that you gave today about talc and 13 ovarian cancer, right? 14 A. I've never published my testimony today? No. 15 Q. Not just your testimony, your opinions about 16 talc and ovarian cancer. You've never tried to 17 publish those? 18 A. No. 19 Q. Never had them peer reviewed? 20 A. No. 21 Q. You know, Johnson & Johnson has teams of 22 scientists that work for them. Have you seen any of 23 their scientific documents about talc and ovarian 24 cancer or tissue studies? 25 A. What -- by Johnson & Johnson, the company?</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 14</p> <p>1 ovarian cancer; and that simply is not the case. 2 Q. Right. We're going to talk more about that in 3 a minute. You're getting ahead of me a little bit. 4 So I'm clear, it's your testimony 5 under oath to this jury that the hundreds of 6 scientists and pathologists who have studied about 7 this issue -- 8 THE COURT: Excuse me, Mr. Dearing. 9 MR. DEARING: Am I arguing? 10 THE COURT: No. It -- you're doing 11 two things. One is, you're arguing with the 12 witness. 13 MR. DEARING: Okay. 14 THE COURT: You're not going to beat 15 her into submission. She's not going to finally 16 say: "Okay, okay, I give up, you're right." 17 That only happens on Perry Mason. 18 MR. DEARING: No. I think we 19 actually agree on this. 20 THE COURT: And second, we'd like to 21 finish this trial in September. 22 (Laughter.) 23 MR. DEARING: I hear you. Okay. 24 THE COURT: So if you keep going over 25 the same thing over and over again, we might not</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 16</p> <p>1 Q. Yeah. 2 A. No. No. 3 Q. The lawyers didn't show you any of their 4 internal science documents? 5 A. No. 6 Q. Let's talk about your analysis of Ms. Kleiner's 7 tissue. 8 So as I understand it, you reviewed 9 the hospital pathology reports. You reviewed the 10 pathology slides that the hospitals prepared. And 11 you read Dr. Godleski's report and looked at his 12 data, right? 13 A. Yes. 14 Q. And because you looked at Dr. Godleski's 15 report, you know that he provided to the defense, 16 and presumably to you, he disclosed all of his 17 relevant findings in this case with the precise 18 locations of the talc particles and fibers that he 19 found in the blocks, right? You know that, right? 20 A. Yes. 21 Q. And you did not study the blocks at all, did 22 you? 23 A. No, that's incorrect. I studied the -- I have 24 reviewed the slides that were obtained from the 25 blocks.</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 17</p> <p>1 Q. Right. 2 A. Which is essentially the same thing. In fact, 3 I looked at recuts of some of those blocks. So 4 that's incorrect. I did examine them. 5 Q. Okay. You looked at slides the hospital made 6 from the blocks that Dr. Godleski studied before he 7 studied the blocks, right? The slides in the recuts 8 you described were made before he studied the 9 blocks, right? 10 A. I don't know about the recuts, but certainly 11 the original slides would have been obtained before 12 he studied the blocks. 13 That being said, the slides are 14 representative of the blocks. And that's -- that's 15 just common. That's knowledge. That's just the way 16 it works in surgical pathology. 17 Q. I understand that's true when you're diagnosing 18 cancers, okay. I understand that routine light 19 microscopy can look at little slivers of a block. 20 My question to you is: You did 21 nothing to go to the very coordinates that 22 Dr. Godleski pointed you to to verify whether 23 there's talc in the blocks and even see what the 24 tissue in the blocks is responding to, if it's 25 responding to the talc, right? You didn't look</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 19</p> <p>1 MR. DEARING: I agree she should 2 answer my question. 3 THE COURT: Well, we'll never know if 4 she's going to answer your question if you cut 5 her off before she finishes the answer. 6 MR. DEARING: Okay. 7 THE COURT: So just let her give her 8 answer. And if there's something objectionable, 9 make an objection. 10 MR. DEARING: Thank you, Judge. 11 BY MR. DEARING: 12 Q. My question is: You cannot study tissue blocks 13 with a light microscope, right, a routine light 14 microscope like the one you use? 15 A. That's correct. You wouldn't examine the 16 entire tissue block; sections from them, which, by 17 all our practices, are considered entirely 18 representative. 19 Q. If you wanted to study the blocks to see if 20 there was talc in the blocks, you certainly could 21 have had one of your colleagues at Stanford in the 22 electron microscopy lab study the blocks for you, 23 right? 24 A. I think I mentioned earlier this morning in my 25 testimony, on my review of these studies that</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 18</p> <p>1 there, right? 2 A. No, that's incorrect. As I said, I looked at 3 the slides that were removed from the blocks. I did 4 see refractile material. It would be impossible for 5 me to say whether or not that refractile material 6 was talc or not. I've already testified to that as 7 well. So there's no way I could corroborate one way 8 or the other his identification of talc. And I 9 think I already mentioned that earlier this 10 afternoon. 11 Q. Doctor, you can't look at blocks of material 12 with a routine light microscope, right? 13 A. (No response.) 14 Q. That's the advantage -- one advantage of 15 scanning electron microscopy is you could look at 16 the whole block, right? 17 A. I don't know that he's looking at the whole 18 block. I think -- 19 Q. But that's not -- 20 A. -- he's looking at a very small area of the 21 block. 22 Q. But -- 23 MS. POLE: Your Honor, I think she 24 should be allowed to complete her answer. 25 Objection; argumentative.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 20</p> <p>1 Dr. Godleski and others have performed doing this 2 technology, my opinion was that it was not relevant, 3 and so I would never ask -- as I've mentioned, I had 4 a consult asking me to do that, and I would never do 5 it with good -- in good conscience because I don't 6 think it's an appropriate technology for this. 7 Q. And -- 8 A. I don't think it establishes causation. Just 9 identifying a little bit of talc material in some 10 tissue that could be a contaminant I think is 11 extraordinarily misleading. So I would never have 12 done that to begin with. 13 Q. So the answer is, no, you didn't ask your 14 colleague to -- 15 A. No, I would not. I would never do that. I 16 wouldn't do it even before I was working for Johnson 17 & Johnson, as you heard me testify this morning. I 18 would not do it. 19 Q. Wouldn't you also -- wouldn't you want to know 20 whether the talc in the blocks is in a macrophage or 21 is evidencing some kind of inflammatory reaction? 22 You don't even want to know that? 23 A. As I already mentioned, you would notice -- 24 know that best by looking under light microscopy to 25 see if that material was actually in a cell or</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 21</p> <p>1 associated with a foreign body reaction. 2 Q. Yeah. 3 A. And the pictures that are in his report showing 4 SEM, you cannot make out cells. So there's no way 5 to determine whether or not that material is in a 6 cell or associated with a foreign body reaction. So 7 the technology is not appropriate to address that. 8 It would be a light microscopic examination. 9 Q. You're gauging the value of scanning electron 10 microscopy on a two-dimensional photograph that's on 11 a piece of paper or on your computer somebody sent 12 you? 13 A. I'm -- no. I'm basing it on the technology 14 itself. 15 Q. You looked at -- you just said you looked at 16 Dr. Godleski's photographs and said you didn't see 17 macrophages, right? 18 A. That's correct. I don't -- 19 Q. You realize a scanning electron microscope lets 20 you look in three dimensions and lets you see 21 super-high resolution, hundreds of times higher than 22 a routine light microscope like you're using, right? 23 You know that much about SEMs? 24 A. Yes. It's a -- it is a higher resolution. 25 That being said, I think that it's such a -- the</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 23</p> <p>1 the best position to decide what SEM is good for and 2 what it can't be used for? 3 MS. POLE: Objection; argumentative. 4 THE COURT: Yeah. I mean, you're 5 right on the border of "na-na, na-na, na-na." 6 (Laughter.) 7 MR. DEARING: I don't mean to be. 8 THE COURT: No, no, serious. It's 9 just arguing. It's not questioning. So take a 10 deep breath, come up with a question, and full 11 speed ahead. 12 BY MR. DEARING: 13 Q. You've obviously read Dr. Godleski's testimony 14 because Ms. Pole went over some of it with you, 15 right? 16 A. Yes. 17 Q. Okay. And you know in his testimony he 18 testified that one of the advantages of SEM is that 19 you can see the cell structures in the tissue, 20 right? 21 A. I think he -- well, I don't know what he meant. 22 But I think the advantage would be the ultra -- the 23 internal structures of the cell, because as you 24 said, it's a higher resolution. 25 The best way to identify cells is</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 22</p> <p>1 standard method to identify cells is a light 2 microscopy in macrophages. It is not 3 ultra-structural analysis. You do ultra-structural 4 analysis to look inside of cells, not actual, you 5 know, in full-blown cells. You look at the cell 6 organelles. That's a much higher detail, and so you 7 look at an internal structure of a cell. More often 8 than not, you can't be certain even what kind of 9 cell you're looking at. On rare exceptions, it's 10 possible. 11 So it's really -- it's too high 12 magnification, as you say, to be able to determine 13 whether or not -- what kind of cell you're looking 14 at. 15 Q. So you realize that Dr. Godleski has spent a 16 lifetime, a career using scanning electron 17 microscopy to study tissue and cells and particles 18 in tissue; you know that, right? 19 A. I think he's using it to study particles, yes. 20 Q. In tissue, right? 21 A. Yes, in tissue. But what tissue it's in, I 22 don't know that you can necessarily identify based 23 on that technology. 24 Q. I know you think that. But you're not an SEM 25 expert. He's the SEM expert, right? So isn't he in</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 24</p> <p>1 still light microscopy, it just -- it is. 2 Q. It is -- 3 A. It is. 4 Q. -- unless you're also trying to identify 5 particles. 6 Do you know enough about SEM to know 7 that the scanning electron microscopy with the 8 energy diffractive X-ray spectroscopy that's 9 attached to it can actually identify what the 10 particle is? It identifies the atomic composition 11 of the particle, right? That's another advantage to 12 SEM that routine light microscopy doesn't have, 13 right? 14 A. Yes. I think that's -- that is probably the 15 advantage in this, is that you, as best as I can 16 understand, that you can identify these particles. 17 But this is not what you were asking me. You were 18 asking me identifying cells. And identification of 19 cells is best done on light microscopy. 20 Q. So, again, when Dr. Godleski came in here -- 21 THE COURT: Excuse me. Excuse me. 22 You know, every question that begins with 23 "again" should be a red flag. "Again." It's 24 already been asked and answered. 25 MR. DEARING: This one hasn't.</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 25</p> <p>1 THE COURT: Well, then why is it 2 again? 3 MR. DEARING: I don't know. 4 THE COURT: Neither do I. So move on 5 to something else. 6 BY MR. DEARING: 7 Q. When Dr. Godleski testified that he saw talc 8 particles in the cells in macrophages, in the 9 blocks, are you telling this jury right now he was 10 just wrong? 11 A. I don't think that you can make -- I don't -- I 12 could not -- I don't think that identification of 13 cells is best determined on scanning EM. Particles, 14 perhaps. The best -- I would -- I'm not convinced 15 by that, no. I would be convinced if I saw a light 16 microscopic picture of a cell and I saw particles 17 within the cell, which I did not see. That is the 18 gold standard, not SEM. That's my answer. 19 Q. I don't even know if you said he was wrong or 20 not. Is he wrong or is he not wrong? 21 A. I -- I wouldn't know. There's no evidence. 22 Q. In your report, and I'm referring to the third 23 report, you make this sweeping statement, and I want 24 to ask you about it. You say: "Although the early 25 literature hypothesizes a possible role of talc in</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 27</p> <p>1 A. Sure. 2 MR. DEARING: May I approach, Your 3 Honor? 4 THE COURT: Sure. 5 (Counsel approached the witness.) 6 (Handing document to the witness.) 7 THE WITNESS: Thank you. 8 BY MR. DEARING: 9 Q. So this has already been marked for 10 identification as P-1664. 11 MR. DEARING: Mike, can you put that 12 on the screen; but just show the title and the 13 authors? 14 (Exhibit P-1664, O'Brien Study: 15 Association of Powder Use in the Genital Area 16 with Risk of Ovarian Cancer, marked for 17 identification.) 18 BY MR. DEARING: 19 Q. I really only have one question, so it's not 20 going to take very long. 21 A. Okay. Sure. 22 Q. The question is: Isn't it true that this study 23 determined or demonstrated that women who use talc 24 in the genital region have a 13 percent increased 25 risk of getting ovarian cancer if they have a patent</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 26</p> <p>1 the development of ovarian cancer, subsequent 2 accumulated data have not been able to substantiate 3 the [sic] link." 4 Do you remember that statement? 5 A. Yes. Yes. 6 Q. And then right behind that you put a 7 parentheses with some studies purporting to support 8 that proposition. Do you remember doing that? 9 A. Yes, I think so. 10 Q. Okay. And so I just picked, because you wrote 11 "subsequent accumulated data," I assume you're 12 applying to the most -- you're referring to the most 13 recent data. And so I've just pulled the three most 14 recent studies that you cite, and I want to ask you 15 about them. 16 One of them was the O'Brien study 17 from 2020. Do you remember citing that for the 18 proposition that subsequent accumulated data have 19 not been able to substantiate the link? 20 A. I have to -- I don't recall the O'Brien paper 21 specifically now. 22 Q. Okay. Well, I pulled it from your report. I 23 can show you your report, if you like. 24 A. I would rather see the paper. 25 Q. Well, I'll show you the paper.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 28</p> <p>1 or open reproductive tract? 2 MS. POLE: Objection, Your Honor; 3 relevancy. 4 MR. DEARING: I'm cross-examining her 5 on her own report. 6 THE COURT: Yeah. Overruled. 7 (Document published on screen.) 8 BY MR. DEARING: 9 Q. If you need me to direct you, turn over to 10 page -- 11 A. No. No. You don't need to direct me. It's 12 okay. 13 Q. Okay. 14 A. So -- 15 Q. Do you agree with that statement? 16 A. No, not entirely. 17 This did not meet statistical 18 significance, this study. And that's -- that's 19 the -- that's the bottom line on this. 20 Yes, there was a -- appeared to be an 21 association, but the power was insufficient, and it 22 was not statistically significant. So it really 23 didn't provide any proof one way or the other. 24 Q. I agree the overall study didn't provide any 25 proof one way or the other. I totally agree with</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 29</p> <p>1 you.</p> <p>2 But on this particular point,</p> <p>3 referring to women who have ever used powder, the</p> <p>4 women who had a patent or open reproductive tract,</p> <p>5 there was a statistically significant increased risk</p> <p>6 of 13 percent of ovarian cancer.</p> <p>7 If you'd look on page 54 of the</p> <p>8 study, you can either read it in the text in the</p> <p>9 second column or you could look at the table right</p> <p>10 above it.</p> <p>11 In fact, I'll just put it on the</p> <p>12 ELMO.</p> <p>13 Will you -- I don't want you to think</p> <p>14 for a second I'm misleading you, so let me just put</p> <p>15 it up.</p> <p>16 And I'm displaying the table that I'm</p> <p>17 referring to. And I know we're not supposed to</p> <p>18 display the text of the study, so I'm just putting</p> <p>19 the table up. And I'm going to blow it up.</p> <p>20 And do you see that bottom line that</p> <p>21 I have highlighted?</p> <p>22 A. (No response.)</p> <p>23 Q. First of all, let's look at the title so we</p> <p>24 know what we're talking about. This is a study and</p> <p>25 it's entitled: "Subgroup analysis for the</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 31</p> <p>1 A. Sure.</p> <p>2 Q. Everything, right?</p> <p>3 A. Sure. Yeah.</p> <p>4 Q. And you see it showed a 13 percent increased</p> <p>5 risk?</p> <p>6 A. Uh-huh.</p> <p>7 Q. That is statistically significant, right?</p> <p>8 A. No. P-value is .15. That's not statistically</p> <p>9 significant. It's the p-value that you're looking</p> <p>10 at. It should be .05 or less. This is not a</p> <p>11 statistically significant result.</p> <p>12 Q. Well, do you agree that the hazard ratio is</p> <p>13 13 percent?</p> <p>14 A. Sure. But -- but really what I'm talking about</p> <p>15 is the p-value.</p> <p>16 Q. Well, I have a feeling we're going to learn a</p> <p>17 lot more about p-values with our -- with the</p> <p>18 epidemiologist, so.</p> <p>19 A. Sure. Yeah. You should have them discuss</p> <p>20 that. But this is not statistically significant</p> <p>21 results.</p> <p>22 Q. Okay. We can agree to disagree on that.</p> <p>23 Let me talk about another study.</p> <p>24 Another study you offered to support your</p> <p>25 proposition that subsequent accumulated data have</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 30</p> <p>1 association between ever use of powder in the</p> <p>2 genital area and risk of ovarian cancer, pooled</p> <p>3 hazard ratios."</p> <p>4 And hazard ratios are the relative</p> <p>5 risks we've been talking about, right?</p> <p>6 A. Yes.</p> <p>7 Q. All right. And if you look at the bottom of</p> <p>8 this --</p> <p>9 A. Well, I haven't been talking -- we haven't</p> <p>10 really been talking about hazard ratios.</p> <p>11 Q. I'm sorry.</p> <p>12 A. But you've been, I assume. But we have not</p> <p>13 been this morning.</p> <p>14 Q. You're right. We've been talking about it in</p> <p>15 this trial for weeks.</p> <p>16 So you see where it says under the</p> <p>17 patency category?</p> <p>18 A. Yes.</p> <p>19 Q. So that's talking about women with patent</p> <p>20 reproductive tracts?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Which means they still have their ovaries,</p> <p>23 tubes --</p> <p>24 A. Right.</p> <p>25 Q. -- uterus?</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 32</p> <p>1 not been able to substantiate this link between talc</p> <p>2 use and ovarian cancer.</p> <p>3 A. Uh-huh --</p> <p>4 Q. -- was the Taher study from 2018. You remember</p> <p>5 that study?</p> <p>6 A. Yeah. We'll have to look at that again.</p> <p>7 Q. Okay. My biggest fear is putting the jury to</p> <p>8 sleep with epidemiology studies after lunch, so I'm</p> <p>9 going to breeze through these. Here's the Taher</p> <p>10 study.</p> <p>11 A. Thank you.</p> <p>12 Q. I figured since you cited it in your report,</p> <p>13 you were familiar enough to just talk about it.</p> <p>14 But as you know, the Taher study</p> <p>15 combined 27 other studies, right? This is a</p> <p>16 meta-analysis, right?</p> <p>17 A. Right.</p> <p>18 Q. Right.</p> <p>19 A. Right.</p> <p>20 Q. And it determined that women who used talc in</p> <p>21 the genital area have a 28 percent increased risk of</p> <p>22 ovarian cancer, right?</p> <p>23 A. (No response.)</p> <p>24 Q. Do I need to point you to it?</p> <p>25 You can really look right to the</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 33</p> <p>1 abstract where it says "results." A positive 2 association between perineal use of talc powder and 3 ovarian cancer was found. 4 A. Uh-huh. 5 Q. And it gives you an odds ratio of 1.28. That 6 was statistically significant, right? 7 A. Correct. 8 Q. Okay. And then you also refer to a third study 9 to support your statement, and that's the 10 Penninkilampi study from 2018. 11 Do you remember that one, or would 12 you like me to provide it to you? 13 A. No; you'll have to show that to me again, too. 14 Q. Okay. 15 A. So once again, just to keep things moving, when 16 I cite literature, I'm not just citing the, you 17 know, the pros or the cons. It's an attempt to 18 represent the cumulative literature. And so if you 19 cherry-pick out little statements and little 20 comments here and there, you will "buffet" your 21 argument. 22 The point is, if you put all of these 23 sort of the literature together, you end up sort of 24 with a -- I think a plus/minus. There's no 25 definitive evidence to support this.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 35</p> <p>1 A. Accumulate. Cumulative. 2 Q. -- has not been able to substantiate the link, 3 and then you put these studies right behind that as 4 if it supports it. And these studies don't, right? 5 A. No. I think it does. I think the cumulative 6 data, if you put them all together, doesn't provide 7 a lot of strong evidence one way or the other. 8 Q. Okay. Well, you have Penninkilampi in your 9 hand. 10 And I should go back. The Taher 11 study is P-1045. Penninkilampi is P-1013. And of 12 course, you know Penninkilampi determined or 13 demonstrated -- and this was another meta-analysis. 14 They combined 24 case-control studies and the three 15 cohort studies that we've already heard about. And 16 they determined that women who used talc in their 17 genital region for more than ten years, like 18 Ms. Kleiner, had a 42 percent increased risk of 19 ovarian cancer. 20 That's what the Penninkilampi authors 21 determined, right? 22 A. So these are meta-analyses of epidemiologic 23 literature. 24 Q. Yeah. 25 A. Correct.</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 34</p> <p>1 Q. So I -- 2 A. And that's the point of what I'm doing. I'm 3 not trying to bias my report by only citing the 4 things that support my opinion. 5 Q. Right. Well, your statement -- 6 A. So you will definitely be able to cherry-pick 7 out things that don't necessarily agree with what 8 I'm saying. But the point is, if you -- if you put 9 all the information together, my opinion still 10 holds; that there's no substantial significant 11 scientific evidence to support talc causing ovarian 12 cancer. 13 Q. Do you think I cherry-picked the findings of 14 Penninkilampi a minute ago when I just read it to 15 you? 16 A. To a certain extent, yes. You're not listening 17 to what I'm saying. I'm putting forward the recent 18 literature. And on balance, if you look at the 19 recent literature, as well as the remote literature, 20 I don't think there's overwhelming evidence to 21 support this at all. 22 Q. I understand. And I only pulled these three 23 because of what your statement was. 24 A. But -- 25 Q. You said subsequent accumulated data --</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 36</p> <p>1 Q. Yeah. 2 A. Okay. 3 Q. You cited them in your report. 4 A. Yes, of course. There is epidemiology -- I am 5 not an epidemiologist. I'm well aware of the 6 literature. And I understand -- there's -- you guys 7 are going to hear, if you haven't already, 8 epidemiology experts. Listen to them. This is not 9 my area. But I am cognizant of this literature. 10 That being said, there is still no -- 11 there's no demonstrable evidence of cause and effect 12 of talc, perineal talc exposure with ovarian cancer. 13 These papers themselves say that. More studies need 14 to be done. There's no causative effect. We 15 haven't figured out the cause yet, if this is true. 16 And that's basically what I'm saying. I'm trying to 17 prevent -- present a very balanced view on this 18 topic. 19 Q. That may be what you're trying to say, but we 20 read already what you did say, but let me switch 21 gears entirely. 22 You also said today -- 23 MS. POLE: Your Honor, objection to 24 the gratuitous comments from counsel as 25 argumentative.</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 37</p> <p>1 THE COURT: Yeah. You've had enough 2 strikes that we're at the point now you do it 3 one more time, that is the end of your 4 cross-examination. 5 MR. DEARING: Okay. 6 THE COURT: There's no editorial 7 comment before the question, after the question. 8 If you hear yourself making a statement that 9 ends in a period, you've probably stepped out of 10 bounds. Ask questions, that's it, or that's the 11 end of your cross-examination. 12 MR. DEARING: Yes, sir. 13 BY MR. DEARING: 14 Q. Doctor, did you also say that inflammation is 15 not associated with ovarian cancer? 16 A. Correct. 17 Q. And I read your resume. And you are a -- are 18 you a longstanding member of the American Society of 19 Clinical Oncology? 20 A. I have been a member. I'm not sure I'm 21 currently a member. But, yes, I was a member of 22 ASCO. 23 Q. According to your resume, you were a member in 24 2004. 25 A. Oh, yes, definitely.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 39</p> <p>1 Epithelial Ovarian Cancer," by Dr. Fujiwara and 2 others? 3 A. Uhhh, I'm not sure I have. Can you show it to 4 me? 5 Q. Sure. I'd like to -- 6 A. It sounds vaguely familiar, but I don't know. 7 Q. The study I'm referring to is Plaintiffs' 8 Exhibit 1935. 9 (Handing document to the witness.) 10 A. Yes. 11 (Exhibit P-1935, Study: Paradigm 12 Shift in the Management Strategy for Epithelial 13 Ovarian Cancer, by Fujiwara and others, marked 14 for identification.) 15 BY MR. DEARING: 16 Q. Does that study ring a bell now that you've 17 looked at it? 18 A. Yes. 19 Q. And of course, this study published by the 20 American Society of Clinical Oncology states, among 21 other things, in the right-hand column, it concludes 22 that [reading]: Long-substantiated risk factors for 23 ovarian cancer makes sense in the context of the 24 critical role of the Fallopian tube -- that the 25 Fallopian tube plays in ovarian cancer.</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 38</p> <p>1 Q. And you've already even served on a review 2 panel for them just two years ago, right? 3 A. Yes. That's for their ovarian -- or, yeah. 4 Actually, it's an ovarian cancer review panel, yes. 5 Q. And the American Society of Clinical Oncology 6 is a very large global network of oncology 7 professionals, right? 8 A. Yes. 9 Q. In fact, according to their website, they have 10 over 45,000 oncology professionals as members. Does 11 that sound about right to you? 12 A. Sure. I don't -- yeah. I -- it's a very big 13 organization. I don't know the numbers. 14 Q. Okay. And the mission statement on the website 15 says: "The American Society of Clinical Oncology is 16 dedicated to providing the highest quality resources 17 in education, policy, the pioneering of clinical 18 research, and above all, advancing the care for 19 patients with cancer." 20 Do you agree that that's the mission 21 of the American Society of Clinical Oncology? 22 A. Yeah, I think so. 23 Q. Have you seen the study published by the 24 American Society of Clinical Oncology entitled: 25 "Paradigm Shift in the Management Strategy for</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 40</p> <p>1 And to put some context to this, this 2 is a study about the management of ovarian cancer 3 and the benefits of -- 4 MS. POLE: Your Honor, objection. 5 There is no question to the last sentence that 6 counsel made. So I don't know if he's getting 7 ready to ask another question or make a 8 statement. 9 THE COURT: I don't know. 10 MR. DEARING: I'm getting to my 11 question. 12 THE COURT: Yeah. Well, confine 13 yourself to questions. 14 BY MR. DEARING: 15 Q. Do you know what this study is about? 16 A. This -- so, it's not really a study. It's a 17 review article. 18 Q. All right. Is this review article about 19 managing ovarian cancer risk through either tubal 20 ligation or salpingectomy, removing of the Fallopian 21 tubes altogether? 22 A. Yes. That's part of it. Yes. It's a whole -- 23 yeah. There's a -- as I mentioned, our thoughts 24 about ovarian cancer have shifted dramatically in 25 the last several decades, and this is addressing</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 41</p> <p>1 that.</p> <p>2 Q. Right.</p> <p>3 And do you agree with the statement</p> <p>4 that inflammatory conditions, such as pelvic</p> <p>5 inflammatory disease, incessant ovulation, or</p> <p>6 irritants such as talc that have ascended from the</p> <p>7 lower genital tract via the Fallopian tube to the</p> <p>8 tubo-ovarian junction, increase mutagenesis and</p> <p>9 increase the risk of ovarian cancer? Do you agree</p> <p>10 with that statement?</p> <p>11 A. No, I don't. It's a very complicated and</p> <p>12 multi-part statement.</p> <p>13 Are there -- and these are not long</p> <p>14 substantiated. The only long-substantiated risk</p> <p>15 factor, as I mentioned earlier this morning in my</p> <p>16 testimony, is incessant ovulation. Inflammation has</p> <p>17 certainly been promulgated as a possible etiology in</p> <p>18 ovarian cancer. That's not been conclusive. The</p> <p>19 talc story we've already -- I've already discussed</p> <p>20 has not been conclusive.</p> <p>21 Definitely incessant ovulation or</p> <p>22 late childbirth, without a doubt, those are risk</p> <p>23 factors, as I mentioned, as well as hereditary. All</p> <p>24 of these others have been kind of tossed in there.</p> <p>25 And there's only one citation to support that. So</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 43</p> <p>1 Q. If you would, turn to the second page.</p> <p>2 Actually, is that right? Yeah, the second page.</p> <p>3 There's a diagram on the second page.</p> <p>4 A. Third for me; but got it.</p> <p>5 Q. Okay.</p> <p>6 A. Uh-huh.</p> <p>7 (Document published on screen.)</p> <p>8 BY MR. DEARING:</p> <p>9 Q. And this is a diagram that sort of explains</p> <p>10 that last sentence. And on the left it says the</p> <p>11 "role of the Fallopian tube in ovarian cancer," and</p> <p>12 then it has an example of a tubal ligation and where</p> <p>13 that ligation would occur. And then on the right</p> <p>14 side of it, it has an example of where the excision</p> <p>15 would be if you were to remove the Fallopian tube;</p> <p>16 is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And if you look in the middle, it's showing the</p> <p>19 reproductive tract and it's talking about retrograde</p> <p>20 menstruation.</p> <p>21 A. Uh-huh.</p> <p>22 Q. And as a pathologist, just do you know that</p> <p>23 retrograde menstruation is where occasionally women</p> <p>24 will experience a retrograde flow of menstrual fluid</p> <p>25 instead of, sort of, an outward flow?</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 42</p> <p>1 there's not a lot of literature to support that.</p> <p>2 In these introductory review</p> <p>3 articles, they often put in these sweeping</p> <p>4 statements, and you have to be really careful about</p> <p>5 which ones are really supported by the scientific</p> <p>6 data and which ones are, you know, maybe we think</p> <p>7 about it, we're not sure.</p> <p>8 This has not been written -- this is</p> <p>9 not a very clear or concise or correct statement by</p> <p>10 any stretch of the imagination.</p> <p>11 And, yes, it may be by ASCO, but that</p> <p>12 doesn't mean that it's not completely -- it doesn't</p> <p>13 mean it's correct.</p> <p>14 Q. Okay. That was a long answer.</p> <p>15 Do you agree with the part that</p> <p>16 says -- it refers to the talc that has ascended from</p> <p>17 the lower genital tract via the Fallopian tube to</p> <p>18 the tubo-ovarian junction, increase mutagenesis and</p> <p>19 increase the risk of ovarian cancer?</p> <p>20 In other words, do you agree or</p> <p>21 disagree with their proposition that talc can ascend</p> <p>22 the reproductive tract to the ovaries?</p> <p>23 A. I disagree. I think I've already made -- I</p> <p>24 already had testimony to that. I haven't changed my</p> <p>25 mind about that since lunch.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 44</p> <p>1 A. Yes. I think I testified earlier this morning</p> <p>2 that that's one of the possible causes of</p> <p>3 endometriosis.</p> <p>4 Q. Right.</p> <p>5 A. Yes.</p> <p>6 Q. And you see how it also includes irritants like</p> <p>7 talc where that retrograde menstruation may also</p> <p>8 bring talc particles up into the Fallopian tubes and</p> <p>9 ovaries; do you see that?</p> <p>10 A. Yes. That's on that diagram, yes.</p> <p>11 Q. So do you disagree that talc can flow through</p> <p>12 the reproductive tract through retrograde</p> <p>13 menstruation?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Okay. I didn't see it in your report where you</p> <p>16 suggested that talc cannot migrate to the ovaries.</p> <p>17 But I do -- but I did hear you say it today. So let</p> <p>18 me ask you:</p> <p>19 Are you saying that talc or materials</p> <p>20 applied to the exterior genitalia can never migrate</p> <p>21 or that they didn't migrate in this case?</p> <p>22 A. I don't think they do, based -- and this is</p> <p>23 based on all my years of experience of looking at</p> <p>24 tissues removed from women who either have cancer or</p> <p>25 don't have cancer.</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 45</p> <p>1 If there was talc or particle 2 migration through the Fallopian tube, at some point 3 in time I would see particulate material in 4 macrophages or a foreign body reaction, which we 5 discussed more than probably anybody wants to hear 6 from this morning. And I just -- I have never seen 7 it. I don't see it. 8 Do I see endometriosis in women? 9 Yes, we see that, not infrequently. And that is 10 thought to be -- arise from this retrograde flow. 11 So we do see that. So if talc is migrating up 12 there, why am I not seeing the reaction to that? I 13 see the endometriosis. I don't see that. 14 Bacterial infection, occasionally 15 bacteria ascend through the Fallopian tube and you 16 see pelvic inflammatory disease, and you see a 17 definite inflammatory response. Why do I not see 18 it? If talc is migrating, why have, not just me, 19 but why have no gynecologic pathologists ever seen a 20 response to it? It's not -- it's just not there. 21 Q. So are you saying that a tubal ligation does 22 not protect a woman from the ascension of potential 23 environmental carcinogens into the reproductive 24 tract? 25 A. I don't think I was talking about carcinogens</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 47</p> <p>1 that's happening, I would have seen it in all my 2 years that I've been practicing. 3 Q. Are you familiar with Blaustein's Pathology of 4 the Female Genital Tract? 5 A. Yes, I am. That's an old version. Where did 6 you get that? 7 Q. This is the most recent version. 8 A. Is it? 9 Q. Seventh edition. 10 A. Oh, my goodness. Well, I guess I haven't got 11 it yet. 12 Q. I only know because I have the others, but -- 13 A. Uh-huh. 14 Q. Do you agree this is an authoritative treatise 15 on pathology, particularly female gynecologic 16 pathology? 17 A. It's one of the textbooks that deals with GYN 18 pathology, yes, it is. 19 Q. So are you telling us that you disagree with 20 the statement that hysterectomy and tubal ligation 21 reduce or prevent potential environmental 22 carcinogens from entering the peritoneal cavity and 23 thereby contacting tubal and ovarian tissue? Are 24 you saying you disagree with that statement? 25 A. Tubal ligation and hysterectomy will prevent --</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 46</p> <p>1 at all at this point. We were talking about 2 particles, talc, ascending through the Fallopian 3 tube. 4 Q. Okay. Well, let me ask you -- 5 A. And ideally, I would think a -- a good tubal 6 ligation might prevent that. Might even prevent, 7 you know, any flow. I mean, that's the point, to 8 prevent -- to sterilize, to prevent sperm 9 fertilizing an egg. So, yes. 10 Q. So -- and I'm just trying to understand your 11 answer -- you're saying talc cannot migrate from the 12 vagina to the ovaries. Are you saying nothing can 13 or just talc? Can other potential carcinogens other 14 than talc migrate to the ovaries? 15 A. Once again, no, we're not talking -- no. I'm 16 not going to do this potential "what if" anything. 17 We're talking specifically about retrograde 18 menstruation, endometriosis, inflammation, and this 19 latest one, talc. 20 I have seen evidence of retrograde 21 menstruation causing endometriosis. I have seen 22 ascending inflammation causing pelvic inflammatory 23 disease. I have not seen talc in pelvic tissues 24 associated with macrophages or foreign body 25 response. I have never seen that. And surely, if</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 48</p> <p>1 should prevent anything going -- getting -- or 2 rising, carcinogenic or noncarcinogenic. So it's, 3 you know... 4 Q. So is that a yes or no? I'm confused. 5 A. Sure. I mean, it doesn't -- it's not saying a 6 whole lot basically. 7 If you remove -- if you ligate the 8 tubes, yeah, that's the whole point, to prevent 9 anything reaching beyond the -- beyond that ligation 10 procedure, carcinogenic or noncarcinogenic. So it 11 doesn't make any difference. The idea is, it's 12 supposed to stop everything. 13 Q. Right. 14 A. Right. 15 Q. But if your opinion is things can't get up 16 through there anyway, it's not really stopping 17 anything, is it? 18 A. That's right. That's why I'm answering the way 19 I'm answering. 20 Q. Okay. 21 A. Yeah. 22 Q. Do you agree with the next sentence: 23 "Opportunistic salpingectomy" -- the removal of the 24 tubes -- "greatly reduces the risk of ovarian cancer 25 as demonstrated in several recent studies"?</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 49</p> <p>1 A. Yeah. That's pretty -- yeah, that's 2 interesting. I think that it -- I think it does. I 3 think that data supports it. I think there's also 4 recent data that suggests that it may not be so much 5 that it's blocking, you know, preventing, you know, 6 carcinogenic events, if you will, but it's actually 7 preventing cellular proliferation of the tubal 8 epithelium itself. And it's that cellular 9 proliferation that some people think excessive 10 cellular proliferation ultimately leads to 11 carcinogenesis. So, yes, I think that, yeah, it's a 12 complicated issue.</p> <p>13 Tubal ligation definitely, I think, 14 is protective against ovarian cancer. But I'm not 15 sure that it's just that it's blocking it. That's 16 what we used to say. I think it's a lot more 17 complicated than that.</p> <p>18 Q. Doctor, are you familiar with the National 19 Academy of Sciences?</p> <p>20 A. Yes.</p> <p>21 Q. Are you familiar with this Publication 22 entitled: "Ovarian Cancers: Evolving Paradigms in 23 Research and Care," published by the National 24 Academies of Sciences?</p> <p>25 A. You have to refresh my -- I'm not sure I do or</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 51</p> <p>1 Academies of Sciences, Engineering, and Medicine. 2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And it also says that it's sponsored -- on the 5 next page -- by the Centers for Disease Control and 6 Prevention, right? It's partially funded by the 7 CDC; do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And so we're clear, the committee on the state 10 of the science in the ovarian cancer research that 11 produced this position statement is a list of 12 scientists, pathologists, medical professionals from 13 all over the country, right? There's the dean of 14 the School of Medicine from Virginia. There is a 15 gynecologic oncologist; the professor and vice chair 16 for research at the University of Pittsburgh; the 17 professor and chair of epidemiology and 18 biostatistics at UC San Francisco; the University of 19 California Los Angeles is represented; UNC Chapel 20 Hill is represented; the National Cancer Institute 21 has a scientist involved in this.</p> <p>22 Anyway, and the list goes on. The 23 point is: This committee is made up of reputable 24 scientists, cancer scientists and medical 25 professionals, right?</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 50</p> <p>1 not.</p> <p>2 Q. Okay. I'm showing the witness what's been 3 marked as P-460 for identification.</p> <p>4 (Exhibit P-460, Publication entitled: 5 "Ovarian Cancers: Evolving Paradigms in Research 6 and Care," published by the National Academies 7 of Sciences, marked for identification.) 8 (Handing document to witness.)</p> <p>9 THE WITNESS: Oh, thank you.</p> <p>10 Now, I'm not going to be able to read 11 all this; or you'll be in the trial till 12 November.</p> <p>13 BY MR. DEARING:</p> <p>14 Q. And I'll represent to you, it's 400 pages long.</p> <p>15 A. Yeah. Uh-huh.</p> <p>16 Q. And I've only pulled a portion of it because I 17 was trying to not overwhelm anybody.</p> <p>18 But let's just look at it. We're not 19 going to go through all of it, but I want to talk 20 specifically about one section of it, but to orient 21 everybody about it.</p> <p>22 This is the cover page. And you can 23 see this is from the committee on the state of the 24 science in ovarian cancer research; the Board on 25 Healthcare Services; Institute of Medicine; National</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 52</p> <p>1 A. Yes.</p> <p>2 Q. And in the preface it says that --</p> <p>3 MS. POLE: Your Honor, objection to 4 showing this document. It's not in evidence. 5 It's a learned treatise. If he's claiming that 6 it's a learned treatise, then it shouldn't be 7 published.</p> <p>8 MR. DEARING: Right. I don't intend 9 to publish the contents, Your Honor. I'm just 10 setting up what it is we're looking at.</p> <p>11 THE COURT: Sure. Objection is 12 overruled.</p> <p>13 BY MR. DEARING:</p> <p>14 Q. And now if you would look to page 110, which 15 I've inserted on the very back because I didn't want 16 to copy this whole textbook or this whole 17 publication, but there's a section on inflammation. 18 Are you familiar with that section? Have you read 19 that before?</p> <p>20 A. No, I have not read this.</p> <p>21 Q. Okay. Well, tell me if you agree with the 22 statement that, in the section under inflammation, 23 that studies of talc -- and I'm sorry. It's about 24 halfway through -- halfway down the first paragraph. 25 It says: "Studies of talc use, which</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 53</p> <p>1 is chemically similar to asbestos and can cause an 2 inflammatory response. The use of perineal talcum 3 powder has been associated with a 20 to 30 percent 4 increased risk of ovarian cancer, although it has 5 been shown to vary by histologic subtype." 6 Do you agree with that statement? 7 MS. POLE: Objection, Your Honor, no 8 foundation. Witness has not seen this. It 9 calls for her to speculate; and relevancy. 10 THE COURT: Overruled. 11 BY MR. DEARING: 12 Q. Do you agree with that statement, Doctor? 13 A. Which statement again? I'm sorry. I have to 14 admit, I was reading it while you were talking. 15 I'll pay attention now. 16 Q. I'll read it again. 17 And it's referring to the studies. 18 It says: "This has lead to studies of talc use, 19 which is chemically similar to asbestos and can 20 cause an inflammatory response. The use of perineal 21 talcum powder has been associated with a 20 to 22 30 percent increased risk of ovarian cancer, 23 although it has been shown to vary by histologic 24 subtype." 25 A. That's correct. And they're citing two papers.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 55</p> <p>1 macrophage or associated with a foreign body 2 reaction, that would not -- that would imply 3 that material was introduced while the tissue 4 was in situ or in the body. It would not be 5 post-surgical contamination. You're correct. 6 But you could still have contamination. It 7 doesn't exclude it. Yeah. 8 BY MR. DEARING: 9 Q. I understand. 10 A. I agree with you. 11 Q. But if talc is actually observed in a 12 macrophage -- 13 A. Or particulate material of any kind. You 14 cannot -- 15 Q. I'm just referring to talc -- 16 A. On light microscopy, I could not determine what 17 kind of particulate material is in a macrophage. If 18 I see particulate material in a macrophage or 19 associated with a foreign body reaction, that tells 20 me that that was there, you know, it was not a 21 contaminant. Yes, I agree. That's what I've been 22 saying, uh-huh. 23 Q. Right. 24 A. So it's really not a hypothetical. If I saw 25 it, that would be the case. But I have not seen it.</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 54</p> <p>1 Q. Right. Both of which you cited in your report 2 as well, right? 3 A. Right. But there's other papers that have not 4 identified that elevated risk. 5 Q. So my question is: Do you agree or disagree 6 with that statement? 7 A. I think in those two -- I agree that in those 8 two papers that they identify that increased risk. 9 That has not been substantiated in many other 10 papers. 11 Q. Okay. Thank you, Doctor. 12 Moving on to a different topic. You 13 testified quite a bit about inflammation and 14 macrophages on direct exam. And let me just ask you 15 a hypothetical. 16 If talc was observed in a macrophage 17 in gynecologic tissue, that would rule out the 18 possibility of contamination, right? 19 MS. POLE: Objection; incomplete 20 hypothetical. 21 THE COURT: Overruled. 22 THE WITNESS: If -- you would still 23 have contamination. It doesn't rule out 24 contamination. But if, in fact, there was 25 particulate material, as I mentioned, in a</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 56</p> <p>1 Q. And if you observed talc or if a scientist 2 observed talc in a macrophage in ovarian tissue from 3 a woman who used baby powder or talc for feminine 4 hygiene, wouldn't that suggest to you that the route 5 of exposure that led to the talc being deposited in 6 the macrophage and the ovarian tissue was from that 7 genital application? 8 A. Not necessarily. It could occur -- I mean, 9 you'd have to exclude a prior surgical intervention. 10 Q. Okay. 11 A. And -- 12 Q. Let's exclude that then, okay. So let me 13 repeat it without that. 14 A. And, I mean, we've talked ad nauseam about 15 particulate material throughout the environment. If 16 there was one particle of material in a macrophage 17 in the pelvis, I think that I don't know how you 18 could exclude it having arisen in the absence of use 19 of Johnson & Johnson's baby powder. 20 Most of those studies that have 21 looked at controls, they found particulate material, 22 some of which they identified as talc in women who 23 were not reported users of baby powder. So even 24 having it there does not mean that it came from 25 talc, you know, perineal talc exposure. There's too</p>

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1 many other variables involved.
2 **Q. Do you agree that macrophages can handle**
3 **particles 20 microns or less?**
4 A. I'm not -- I'm not going to be precise on the
5 size. But generally, the smaller the particle, the
6 more likely a single macrophage would be able to
7 engulf it, yes.
8 **Q. Well, if Dr. Godleski has studied macrophages**
9 **for 40 or 50 years and his testimony is that**
10 **macrophages can easily sequester or handle particles**
11 **20 microns or less, do you have any reason to**
12 **disagree with that?**
13 A. No, I don't.
14 **Q. Do you also agree that macrophages have a**
15 **relatively short life span of 30 days or so? And if**
16 **you're not sure, that's a --**
17 A. Well, I don't know. Is this a question or a
18 statement?
19 **Q. No. I asked you --**
20 A. Are you asking me a question just now?
21 **Q. I asked you: Do you agree that macrophages --**
22 A. Yes.
23 **Q. -- have a life span of about 30 days?**
24 A. Yes. Yes. They're not immortal, that's
25 correct.

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1 **Q. And have you seen the studies that showed that**
2 **talc, when it's engulfed by a macrophage, actually**
3 **damages the macrophage; it inhibits phagocytosis and**
4 **damages the macrophage? Have you seen that study?**
5 A. Yes. I think we discussed that this morning.
6 There are studies out there that -- and of course
7 they're not in humans. They're in other organs or
8 cell culture material. But, yes, there's been data
9 that suggests that on occasion, talc can damage or
10 cause the demise of a macrophage.
11 **Q. Right.**
12 A. But as I mentioned this morning, in the human
13 body, you don't just -- the body doesn't just give
14 up. Additional macrophages are in fact recruited.
15 They don't just let that particle just sit there
16 free in the tissue and say, oh, wow, it's not going
17 to work.
18 **Q. I --**
19 A. So additional macrophages are recruited. And
20 if the -- and maybe it takes multiple macrophages to
21 wall off those. So, in fact, maybe it is a small
22 particle, but it requires a foreign body reaction
23 because a single macrophage is being destroyed by
24 it.
25 **Q. So if a macrophage engulfed a talc particle --**

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1 **well, let me back up.**
2 **You said something on direct. You**
3 **said that suture material, and I think you even said**
4 **silicon, stays in the body forever, right? I think**
5 **you said sutures are forever maybe.**
6 A. Well, suture material, it's -- it's hard for
7 the body to break it down. Those foreign body
8 granulomas are -- they're in there for a long, long
9 time.
10 **Q. Right. And by "long, long time," you mean like**
11 **20, 30, 40 years, right?**
12 A. Yes. Yes.
13 **Q. And you know that's also true about talc**
14 **particles?**
15 A. I don't know that that's true because I don't
16 see talc particles or talc granulomas in my GYN
17 practice.
18 **Q. Well, if talc -- I'm sorry. I thought you were**
19 **finished.**
20 A. No. But that's okay. Go ahead.
21 **Q. If talc particles stay in the body 20, 30, 40**
22 **years like suture material and a macrophage which**
23 **only lives 30 days comes and sequesters it and for**
24 **whatever reason, either dies before it can dissolve**
25 **it or carry it off to a lymph node and another**

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1 **macrophage has not yet come to take its place, that**
2 **particle would be sitting there outside of a**
3 **macrophage, right?**
4 A. (No response.)
5 **Q. Did that question make sense?**
6 A. Yeah. I -- it's a pretty rapid response.
7 **Q. It is.**
8 A. Once -- once foreign material is introduced
9 into the body, it's really a pretty rapid response.
10 It's not a -- it doesn't sit there for a couple of
11 hours. Lymphocytes and macrophages are recruited
12 almost immediately.
13 So, yes, if we hypothesize the
14 macrophage dies and the talc has not been enveloped
15 and it's re-exposed to the -- and it would be in the
16 lymph node by then, the lymph node, and there are
17 macrophages already sitting in the lymph node, so it
18 wouldn't take that long for another macrophage. I
19 feel like we're doing comic stuff now. But, you
20 know, it would be very similarly re-engulfed or
21 re-phagocytized by another macrophage.
22 **Q. Sure.**
23 A. It wouldn't be just sitting there.
24 **Q. Do you agree that once tissue is taken out of**
25 **the body, everything sort of stops moving, stops**

<p>- TERI LONGACRE, M.D. (Cross) - Page 61</p> <p>1 responding, stops acting? 2 A. Yes. 3 Q. Because the tissue dies? 4 A. Yes. 5 Q. So it's sort of a snapshot in time when you 6 remove something from the body, right? 7 A. Yes. 8 Q. A piece of tissue. 9 Have you read Dr. Godleski's study on 10 the particle size and shape distribution of talc 11 that's in a bottle of Johnson's baby powder? Have 12 you read that study? 13 A. I don't recall which study that would be. 14 Q. Well, do you know that the particles typically 15 found even in this case by Dr. Godleski are 16 10 microns or smaller? 17 A. Yes. My understanding is that that's what he 18 reports, yes. 19 Q. So if a macrophage can engulf and handle a 20 particle 20 microns or smaller and these talc 21 particles, to Dr. Godleski's finding, are 10 microns 22 and smaller, a couple of them are even 1 micron -- 23 A. Uh-huh. 24 Q. -- that's a size a macrophage can handle, 25 right?</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 63</p> <p>1 most refractile material, that's in the blocks that 2 he chose to work on. 3 Q. Right. 4 A. And on those, again, it's not clear what the 5 correlation is between what he's seeing on light 6 microscopy versus his scanning electron microscopy. 7 There's no way to know because it's two different 8 technologies. But he is definitely guiding which 9 blocks he looks at on the basis of that refractile 10 material that he's showing on his photographs where 11 there's large clumps. 12 I didn't see him say in a report, oh, 13 but it's never those pictures that I'm showing these 14 clumps on. And, in fact, why would I put these 15 pictures in because that's not them, the talc is 16 somewhere else. And he doesn't do that. So it's 17 very misleading what he's doing. 18 But suffice it to say, if he's going 19 to show me a picture of a light microscopy with 20 clumps of refractile material and there's no foreign 21 body response, that is an artifact. That's 22 contaminant. 23 Q. I'm going to repeat my question. 24 You're aware -- 25 THE COURT: No, you're not.</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 62</p> <p>1 A. Yes. It -- yes, you're absolutely right. But 2 if you go back and you look at his pictures of his 3 refractile material, he's got clumps of refractile 4 material. And a single macrophage is not going to 5 be capable of engulfing that. And those clumps 6 should be associated with a foreign body response. 7 So, yes, an isolated small particle, 8 yes, a macrophage should be able to engulf it. But 9 if you're talking about clumps of particles that 10 he's actually showing on his report, that just 11 defies common sense, common pathologic sense. There 12 needs to be -- there should have been a foreign body 13 response. That tells me that's just artifact and 14 contaminant. 15 Q. You know that Dr. Godleski testified that the 16 talc that he positively identified was not the talc 17 in the slides you're referring to. It was the talc 18 in the blocks that he studied by scanning electron 19 microscopy, right? You read his testimony. You 20 know that to be true, right? 21 A. So this gets a really -- his method gets very 22 complicated right now. He used -- yes. Don't look 23 at me like that. I read his report. 24 He looks at the -- at the glass 25 slides, and where -- the slides that he sees the</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 64</p> <p>1 MR. DEARING: She didn't answer the 2 question, Your Honor. 3 THE COURT: Yes, she did. 4 BY MR. DEARING: 5 Q. If talc -- if granuloma -- if macrophages can 6 take up particles 20 microns or smaller, you 7 wouldn't expect to see granulomas trying to take up 8 the small particle, would you? 9 A. Unless they're large aggregates of them, large 10 clumps or aggregates of them, like he's showing, of 11 those particles that he's showing, yes, then you 12 would. Because one macrophage, yes, one particle. 13 But after you get a large clump of them, you would 14 recruit multiple macrophages and you'd get that 15 foreign body reaction. 16 Q. And you said on direct identifying or 17 recognizing a macrophage is basic I think you said 18 elemental science. It's something anybody could do, 19 right, any pathologist could do, right? 20 A. I think -- 21 Q. Let me actually -- 22 A. -- identifying cells is done on light 23 microscopy. 24 Q. Right. I think you said -- 25 A. Macrophages -- actually, sometimes you need</p>

<p>- TERI LONGACRE, M.D. (Cross) - Page 65</p> <p>1 immunohistochemical markers to definitively identify 2 a macrophage. So if I said that, I misspoke. 3 Q. What I wrote down was you said identifying a 4 macrophage was easy, basic science. 5 A. I don't think I said that. That doesn't sound 6 like something that I would say. 7 Q. Well, let me ask you: You would certainly 8 expect someone like Dr. Godleski who has studied 9 macrophages most of his career would recognize a 10 macrophage when he saw one, right? 11 A. Again, as I just mentioned, it can be difficult 12 identifying macrophages. Sometimes you need -- it 13 can be difficult to identify macrophage. 14 (Static in microphone.) 15 Is that me? 16 Q. If your microphone is bumping into your 17 sweater, it might be. 18 A. Sorry. 19 So it can be difficult identifying 20 macrophages in some instances. And you on occasion 21 will perform immunohistochemical studies to confirm 22 whether or not a cell is in fact a macrophage as 23 opposed to a stromal cell. So it's not -- it's not 24 a definitive light microscopic assessment. But you 25 can -- that's true.</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 67</p> <p>1 on the basis of his pictures, I'm not able to 2 make that determination. 3 BY MR. DEARING: 4 Q. Okay. Well, let's look at one of your 5 pictures. I'm referring to Slide 9 in this picture 6 of a multi-nucleated giant cell that you showed the 7 jury earlier today. 8 A. Sure. 9 Q. You remember that? 10 A. Yeah. 11 Q. Was that a picture you provided to defense -- 12 A. Yes. 13 Q. -- to show the jurors? 14 A. Yes. 15 Q. And you testified that this is the type of 16 inflammatory response you would expect to see with 17 talc, right? Did I write that right, or is this not 18 what -- 19 A. I said -- no. I said, foreign material when 20 it's introduced into the body incites a response. 21 And the macrophages, the fundamental cell that 22 responds and tries to sequester the foreign 23 material. If it's small enough and it can engulf 24 it, it will, and it will take it to the lymph node 25 sinuses. If it's large, as you see here, or</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 66</p> <p>1 Q. I'm just trying to hear you. 2 A. Oh. 3 Q. Now I'm trying to think if you answered the 4 question. 5 Would you expect someone with 6 Dr. Godleski's experience to recognize a macrophage 7 when he sees one? 8 A. He has -- 9 MS. POLE: Your Honor, objection. 10 Calls for speculation. 11 THE WITNESS: Look, listen, he has no 12 more experience looking at macrophages in tissue 13 than I do. Perhaps I have more because of my 14 hematology training. And what I'm saying is, 15 yes, I'm pretty good, I'm pretty darn good at 16 identifying macrophages. 17 That being said, there are instances, 18 and it's not that rare, where I will use a 19 immunohistochemical stain to determine is that 20 really a macrophage that I'm looking at or is it 21 some other kind of mononuclear cell. And I 22 don't think that he has any more expertise than 23 me at identifying that. So that's my answer. 24 Certainly, you should be able to tell 25 whether a refractile material is in a cell. And</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 68</p> <p>1 multiple aggregates of it, then you will form a 2 foreign body reaction associated with 3 multi-nucleated giant cells. That's what I said, 4 yes. 5 Q. So you're not suggesting this is how the body 6 would react to a 10-micron talc particle, right? 7 A. This would -- this may -- this would be 8 expected to react to multiple 10-micron talc 9 particles in aggregate, yes. 10 Q. Right. This silicon particle right here, you 11 didn't put a scale on there, but judging by the size 12 of the nuclei, that's probably, what, 500 microns? 13 A. Probably. It's quite large. 14 Q. Yeah. 15 And suture material that you were 16 referring to earlier that would cause a granuloma 17 dose response, that would be something in the 18 neighborhood of 5,000 microns, right? I mean, you 19 could see sutures with the naked eye, right? 20 A. Yes. 21 Q. You also mentioned on direct exam this 22 procedure called "pleurodesis." Do you remember 23 that? 24 A. Yes. 25 Q. And that was the procedure where a</p>

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1 pulmonologist will inject the pleural space into the
2 lung to sort of fill the space with the inflammatory
3 reaction so that that space can't be filled with
4 fluid; is that right? I know that's a layman's
5 explanation, but am I close?
6 A. Yes.
7 Q. Okay. And because Dr. Godleski is a pulmonary
8 pathologist --
9 A. Uh-huh.
10 Q. -- we asked him about that.
11 A. Uh-huh.
12 Q. And you would agree with me that the type of
13 talc that's used in pleurodesis is very large
14 pharmaceutical-grade talc. It's not the same talc
15 that goes in baby powder.
16 A. Yes. I think that's correct.
17 Q. Okay.
18 A. It -- yes.
19 Either way, regardless of the size,
20 the foreign material will still incite a response by
21 the macrophage, either single cell macrophages, in
22 which case the material is removed from the pelvic
23 tissue and sequestered in the lung and there is no
24 chronic ongoing inflammatory response; or it's not
25 able to be digested by a single macrophage, in which

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1 case you would expect to see a foreign body
2 reaction, in which case that material would be again
3 sequestered from the surrounding tissue and there
4 would not be an ongoing inflammatory response.
5 Either way, the response is to remove that foreign
6 material from the surrounding tissues.
7 Q. When you come into court and you say something
8 like "talc has no role in ovarian cancer," you're
9 not speaking on behalf of Stanford University, are
10 you?
11 A. I'm not speaking on behalf of Stanford
12 University at all in this testimony. I'm speaking
13 on the basis of my training and expertise.
14 Q. Okay. And you know there are pathologists and
15 professionals at Stanford who completely disagree
16 with you on that?
17 A. I'm well aware of that.
18 Q. In fact, one of them is Dr. Dean Felsher, who's
19 testified probably 22 times under oath that
20 Johnson's baby powder causes ovarian cancer. You're
21 aware of that, right?
22 A. Yes, I'm very well aware of that.
23 MS. POLE: Your Honor, objection.
24 It's hearsay. No role in this litigation. And
25 also, no foundation and calls for total

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1 speculation.
2 MR. DEARING: It's not speculation.
3 She just said she knew it.
4 MS. POLE: She said she knew him,
5 Your Honor. She said she knew what he said.
6 THE COURT: No. I think she said she
7 was aware that he disagreed with her; is that
8 right?
9 THE WITNESS: Yes; I'm aware of this.
10 THE COURT: Okay. And that doesn't
11 affect your opinion?
12 THE WITNESS: No, at all. Not at
13 all. Dr. Felsher is --
14 THE COURT: Objection is overruled.
15 THE WITNESS: Dr. Felsher is not a
16 gynecologic pathologist. He doesn't see
17 gynecologic patients. He's not an expert in
18 ovarian cancer. He -- no. This is -- when
19 he -- with all -- no. I'm not even going to say
20 with "due respect." When he testifies, he's not
21 testifying out of -- in his area of expertise at
22 all. So, no, his opinions do not impact my
23 opinion in any what so way, not on this, not on
24 this issue. Perhaps other scientific issues;
25 but certainly not this. He is not an expert in

- TERI LONGACRE, M.D. (Cross) - Page 72

1 this area, even though I'm well aware he offers
2 himself regularly as an expert. He is not.
3 BY MR. DEARING:
4 Q. Okay. Well, I wasn't going to go into all of
5 that, but since you brought it up, he's a professor
6 of medicine in oncology and pathology at Stanford,
7 right, the School of Medicine, where you teach?
8 A. Yes.
9 Q. And he's the director of translational research
10 and applied medicine?
11 A. Correct.
12 Q. And has been for over ten years, right?
13 A. (Witness nodding.)
14 Q. And he's also the codirector of the cancer
15 nanotechnology program in the department of
16 radiology at Stanford, right?
17 A. All of those things are true. But that does
18 not make him an expert in this area.
19 Q. And he's the 2020 recipient of the NCI
20 Outstanding Investigator award. Do you know that?
21 A. Yes. Again, none of this has any -- it doesn't
22 relate to talc and ovarian cancer. He's not an
23 expert in this at all. His affiliation with the
24 department of pathology is by -- what's the word?
25 He's a primary. It's not his primary appointment.

<p>- TERI LONGACRE, M.D. (Cross) - Page 73</p> <p>1 He's not a pathologist. 2 So it -- so his opinions don't have 3 a -- don't impact mine at all. 4 Q. Well, he's a professor of medicine in 5 pathology, right? 6 A. There's a lot of professors, yeah. He's a 7 professor of medicine. 8 THE COURT: Excuse me. Now you're 9 arguing with the witness again. You asked the 10 question. She gave the answer. I think you 11 asked it again and she gave the answer. 12 MR. DEARING: I thought she changed 13 her answer. That's why I asked it again. I'm 14 sorry. 15 THE COURT: Well, if you think that 16 she changed it, you can ask her about the 17 change. 18 MR. DEARING: Well, I'm going to move 19 on, Your Honor. 20 THE COURT: Okay. 21 BY MR. DEARING: 22 Q. I only have one more -- a couple things to ask 23 you. 24 You said that when the Johnson & 25 Johnson lawyers approached you the first time about</p>	<p>- TERI LONGACRE, M.D. (Cross) - Page 75</p> <p>1 MR. DEARING: Okay. 2 THE COURT: She has testified 3 before -- this is the first time testifying in 4 court? 5 THE WITNESS: Yes. Thank you. 6 THE COURT: She has testified before 7 for Johnson & Johnson, never in court, but at 8 depositions. 9 THE WITNESS: Yes. 10 THE COURT: The depositions had to do 11 with pelvic mesh. 12 Now, if I can repeat that -- 13 MR. DEARING: Sorry? 14 THE COURT: -- if I can repeat that 15 testimony, you should be able to repeat it as 16 well. And if you know that she said it already, 17 stop asking the same question. 18 MR. DEARING: That's why I'm sitting 19 down, Your Honor. 20 I don't have any other questions. 21 THE COURT: Any redirect? 22 MS. POLE: Yes. Yes, Your Honor. 23 Yes, sir. 24 - - - 25 REDIRECT EXAMINATION</p>
<p>- TERI LONGACRE, M.D. (Cross) - Page 74</p> <p>1 testifying in talc cases you said no; is that 2 correct? 3 A. Well, I don't know -- so attorneys have 4 approached me in the past. I don't know who they 5 were representing. It may have been Johnson & 6 Johnson. It could have been. I don't know. 7 Q. And I think you testified that this is your 8 first talc case, first talc trial testifying, right? 9 A. Yes. Yes. 10 Q. But it's certainly not your first testimony for 11 Johnson & Johnson, right? You've been testifying 12 defending Johnson & Johnson on other products for 13 years, right? 14 A. This is my first court testimony for Johnson & 15 Johnson ever, yes. 16 Q. Have you given sworn testimony defending 17 Johnson & Johnson products in other cases? 18 A. I have done depositions; I made depositions 19 with pelvic mesh, yes, but I've never testified. 20 Q. In other words -- well, this is not the first 21 time you've testified for Johnson & Johnson? That's 22 what I'm trying to ask, right? 23 A. If you -- 24 THE COURT: I think you've already 25 established that.</p>	<p>- TERI LONGACRE, M.D. (Redirect) - Page 76</p> <p>1 - - - 2 BY MS. POLE: 3 Q. Dr. Longacre, I have just a few questions. 4 Mr. Dearing asked you about your 5 first report. And do you recall that that was 6 November 3, 2019? 7 A. I recall it was sometime in November of 2019, 8 yes. 9 Q. And it is marked as Defendants' DX-3136. And I 10 will bring a copy to counsel. 11 (Exhibit DX-3136, Dr. Longacre's 12 report dated 11/3/2019, marked for 13 identification.) 14 MS. POLE: And approaching the 15 witness, Your Honor; bring a copy to you. 16 (Handing document to the witness.) 17 THE WITNESS: Thank you. 18 MS. POLE: I have a copy for the 19 Court. 20 BY MS. POLE: 21 Q. And do you recall that Mr. Dearing asked you if 22 in your first report why you did not criticize or 23 have any comments about Dr. Godleski; do you recall 24 that? 25 A. Yes, I do.</p>

<p>- TERI LONGACRE, M.D. (Redirect) - Page 77</p> <p>1 Q. I'd like for you to go to page 8 of your expert 2 report, the first one, and the section that's styled 3 "response to plaintiffs' expert." 4 A. Yes. 5 Q. Do you see that? 6 A. Yes, I do. 7 Q. And plaintiffs' expert, were you referring to 8 Dr. John Godleski there? 9 A. Yes, I do. 10 Q. Okay. And you said that plaintiffs' pathology 11 expert asserts that there are talc particles and 12 fibers, and you put that in quotes, in lymph node 13 and cancer tissue removed from Ms. Kleiner. 14 A. Yes. 15 Q. And then did you also say that plaintiffs' 16 expert did not control for the tissue processing 17 following surgery and prior to his receipt of the 18 paraffin blocks? Was that your -- that was part of 19 your first report? 20 A. Yes, it was. 21 Q. And so that was your critique or criticism of 22 Dr. Godleski, correct? 23 A. Correct. 24 Q. And so is it fair to say that you did have 25 criticism of him in your first report; is that true?</p>	<p>- TERI LONGACRE, M.D. (Redirect) - Page 79</p> <p>1 Q. And Mr. Dearing showed you the Penninkilampi 2 study, which is P-1013. Do you remember that? 3 A. Yes. 4 Q. And so is that a meta-analysis? 5 A. Yes. 6 Q. And do you recall that in that meta-analysis 7 these authors did not include the Gates study, which 8 was ten years after Gertig, using the same cohort; 9 do you recall that? 10 A. Uhhh, I believe so, yes. Again, I -- it's been 11 a while since I've read this paper. 12 Q. So if you turn -- I just have one or two 13 questions about P-460, which is the thick document 14 you have from the National Academies Press. 15 A. Yes. Yes. 16 Q. Do you have that? 17 A. Yes. 18 Q. If you look at the last page, I think that's a 19 page that Mr. Dearing referenced under 20 "inflammation." 21 A. Yeah. Uh-huh. 22 Q. And it states: "Studies of the inflammatory 23 marker C-reactive protein suggest a possible 24 association." 25 Is a possible association merely an</p>
<p>- TERI LONGACRE, M.D. (Redirect) - Page 78</p> <p>1 A. Yes, it is. 2 Q. Now, Mr. Dearing asked you whether or not you 3 could state definitively that Dr. Godleski did not 4 find talc in Ms. Kleiner's tissue. 5 Was it your testimony earlier today 6 that Dr. Godleski saw birefringent particles? 7 A. (No response.) 8 Q. Well, let me strike that. 9 When you looked at the tissues under 10 polarizing light, did you see birefringent 11 particles? 12 A. Yes. 13 Q. And is it your testimony that you could not 14 determine whether or not they were talc particles; 15 is that correct? 16 A. That's correct, yes. 17 Q. But you knew -- but it's your understanding, is 18 it not, that talc particles are birefringent under 19 polarized light? 20 A. Yes. 21 Q. So Mr. Dearing showed you a number of articles. 22 I'm not going to go through each one of them. But 23 does any one of those documents change your opinions 24 that you gave to the jury this morning? 25 A. No.</p>	<p>- TERI LONGACRE, M.D. (Redirect) - Page 80</p> <p>1 hypothesis? 2 A. Yes. 3 Q. So just a couple of more questions, Doctor. 4 Well, sometimes a couple is more than 5 two, but -- so let me take two or three more 6 questions for you. 7 Can you tell the jury, give them a 8 sense of how many macrophages float around in the 9 human body? 10 A. Oh, tens of thousands; a thousand. I don't 11 know. Many. 12 Q. So if a macrophage dies while it has ingested 13 or engulfed a talc particle, how quickly will 14 another macrophage respond to that particle? 15 A. Virtually immediately. There -- most 16 macrophages are -- come from the blood, the bone 17 marrow and the blood. But there are tissue 18 macrophages. And as I mentioned earlier, there's 19 macrophages residing within lymph nodes. And so the 20 recruitment would be quite rapid. 21 Q. Okay. And just one final question, Doctor. 22 You were asked about the O'Brien study and what 23 those authors found. 24 Are you familiar with the response to 25 O'Brien that was done by Gossett and others in an</p>

<p>- TERI LONGACRE, M.D. (Redirect) - Page 81</p> <p>1 editorial: Use of powder in the genital area and 2 ovarian cancer risk, examining the evidence? Were 3 you familiar with that one? 4 A. Yes. Again, I am familiar with it. But, 5 again, we need to read it in detail if you want me 6 to. 7 Q. No, I don't. 8 A. Okay. 9 Q. Let me just ask you one question about it and 10 see if this recalls -- if this refreshes your 11 recollection. If not, I have a copy for you. 12 But in the study, in the -- I'm 13 sorry, in the editorial, the authors note that the 14 subgroup analysis suggesting that women with intact 15 reproductive tracts who used powder in the perineal 16 area develop ovarian cancer more frequently than 17 nonusers is below the effect size that 18 epidemiologists generally consider important and 19 should not be selectively highlighted by the 20 statistically unsophisticated reader as evidence of 21 a relationship. 22 Do you remember that part of the 23 editorial? 24 A. Yes, I do. 25 Q. And do you agree with that?</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 83</p> <p>1 THE WITNESS: Thank you. 2 THE COURT: You're excused. 3 This might be a good time to take a 4 break, afternoon recess. We'll resume in ten 5 minutes. 6 (Witness excused.) 7 MS. POLE: How many minutes, Your 8 Honor? 9 THE COURT: Ten. 10 MS. POLE: Thank you. 11 THE COURT: Which will take us till 12 twenty after 3:00. That will be ten minutes. 13 Just follow the court officer's direction. 14 LAW CLERK: All rise as the jury 15 exits. 16 - - - 17 (Whereupon the jury panel exited the 18 courtroom at 3:09 p.m.) 19 - - - 20 (Whereupon a recess was taken.) 21 - - - 22 (The following transpired in open 23 court outside the presence of the jury panel:) 24 - - - 25 THE COURT: Counsel, when you're</p>
<p>- TERI LONGACRE, M.D. (Redirect) - Page 82</p> <p>1 A. Yes, I do. 2 Q. Thank you. 3 MS. POLE: I have -- 4 THE COURT: Excuse me. Can you 5 explain to us what that means? 6 THE WITNESS: It's basically, you 7 know -- well, it's a little more inflammatory 8 than what I was saying, but it's basically and 9 actually, it says it in the article, it doesn't 10 reach the power that it should. So it's -- it's 11 interesting, but it's not to the level that it 12 means much of anything. It needs to be a larger 13 study, a larger cohort. It doesn't -- it's not 14 the power. The numbers are too small. It's not 15 significant. 16 BY MS. POLE: 17 Q. Do you need a copy of -- 18 A. No. 19 MS. POLE: Okay. I have nothing 20 further from the witness, Your Honor. 21 And I would pass. 22 THE COURT: Any recross? 23 MR. DEARING: No, sir. 24 THE COURT: All right. You're done 25 on the witness stand. You can step down.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 84</p> <p>1 whispering at counsel table, don't forget that 2 you're mic'd up. And if you want to talk to 3 each other at counsel table, maybe you should 4 turn off your microphone when you sit down or -- 5 MS. POLE: Yes, sir. 6 THE COURT: Just a suggestion. 7 I was thinking of asking this jury if 8 5:00 would be okay. I don't like to do it 9 without asking them because we told them at the 10 outset 4:30. Is 5:00 okay with everybody if 11 it's okay with the jury? 12 MS. POLE: Yes, sir. 13 THE COURT: Okay. When they come in, 14 I'll ask them about 5:00. 15 MS. WINKLER: That's fine with us. I 16 think that one of the jurors had to be out by 17 4:45 every day, if I remember correctly. 18 Demetrius might know better. 19 THE COURT: Oh, okay. 20 MS. WINKLER: But it might give us a 21 little more latitude. 22 THE COURT: Well, maybe that juror is 23 gone. 24 MR. SCHOENHAUS: Oh, it was Juror 1. 25 MS. WINKLER: Oh, yeah. You're</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 85</p> <p>1 right.</p> <p>2 LAW CLERK: All rise as the jury</p> <p>3 enters.</p> <p>4 - - -</p> <p>5 (Whereupon the jury panel reentered</p> <p>6 the courtroom at 3:25 p.m.)</p> <p>7 - - -</p> <p>8 (The following transpired in open</p> <p>9 court in the presence of the jury panel:)</p> <p>10 - - -</p> <p>11 MS. O'DELL: Your Honor, may we have</p> <p>12 a brief sidebar before we start the witness?</p> <p>13 Sorry.</p> <p>14 THE COURT: We sat here for ten</p> <p>15 minutes.</p> <p>16 MS. O'DELL: I'm sorry. We just -- I</p> <p>17 just realized it.</p> <p>18 THE COURT: Sure.</p> <p>19 LAW CLERK: You may be seated.</p> <p>20 - - -</p> <p>21 (The following discussion transpired</p> <p>22 at sidebar, out of the hearing of the jury</p> <p>23 panel:)</p> <p>24 - - -</p> <p>25 MS. O'DELL: My apologies, Your</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 87</p> <p>1 MS. POLE: He did. He talked</p> <p>2 about --</p> <p>3 THE COURT: Wait.</p> <p>4 MS. O'DELL: I'm sorry.</p> <p>5 THE COURT: But he did talk about</p> <p>6 this other slide?</p> <p>7 MS. O'DELL: Oh, it's a separate</p> <p>8 objection. This slide is a separate objection,</p> <p>9 so.</p> <p>10 But my point being --</p> <p>11 THE COURT: How would I know that's</p> <p>12 what you were showing me when you came up?</p> <p>13 MS. O'DELL: I'm sorry. I just had</p> <p>14 this one that was one on top.</p> <p>15 THE COURT: Okay.</p> <p>16 MS. O'DELL: So the point being,</p> <p>17 Dr. Rigler had disclosed this opinion, IARC 2012</p> <p>18 has been on his reliance materials since</p> <p>19 November of 2018. Dr. Wolf's opinions on IARC</p> <p>20 2012 has --</p> <p>21 THE COURT: Okay. How are you</p> <p>22 prejudiced by this?</p> <p>23 MS. O'DELL: Because we --</p> <p>24 Dr. Sanchez has never disclosed any opinions</p> <p>25 whatsoever about talc fibers, ever. There's</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 86</p> <p>1 Honor. We just got this PowerPoint, and we were</p> <p>2 going through it during the break as quick as we</p> <p>3 can. There are two references that are not on</p> <p>4 Dr. Sanchez's reliance materials, the first</p> <p>5 being the IARC 2012 Monograph is not part of his</p> <p>6 materials, nor is this listing of agents</p> <p>7 classified by IARC Monographs. It's not listed</p> <p>8 anywhere in the reports that I can find.</p> <p>9 And so we --</p> <p>10 THE COURT: Okay. So let me find out</p> <p>11 from you, from the defense, what's the story.</p> <p>12 MS. POLE: Yes. We were responding</p> <p>13 to Dr. Rigler's opinions when he was on the</p> <p>14 witness stand, and I think we have a right to do</p> <p>15 that.</p> <p>16 THE COURT: What opinions did he</p> <p>17 express related to these two PowerPoint slides?</p> <p>18 MS. POLE: He talked about the 2012</p> <p>19 IARC report, and he talked about -- let's see</p> <p>20 your second one that you talked about.</p> <p>21 MS. O'DELL: He did not talk about</p> <p>22 this, Your Honor, the agents classified by IARC</p> <p>23 Monographs. It's the whole listing.</p> <p>24 THE COURT: But he talked about the</p> <p>25 first one.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 88</p> <p>1 none in his report, either his November 2019</p> <p>2 report or his May 2020 report --</p> <p>3 THE COURT: So what's he here to</p> <p>4 testify about?</p> <p>5 MS. O'DELL: He's going to testify</p> <p>6 about talc fibers.</p> <p>7 THE COURT: Well, then how can it be</p> <p>8 that he's never expressed an opinion about talc</p> <p>9 fibers?</p> <p>10 MS. O'DELL: To my knowledge, in his</p> <p>11 report, and Ms. Pole can disagree with me,</p> <p>12 Dr. Rigler had a whole section on fibrous talc</p> <p>13 in his report.</p> <p>14 THE COURT: Uh-huh.</p> <p>15 MS. O'DELL: It's not here</p> <p>16 (indicating).</p> <p>17 This is about --</p> <p>18 THE COURT: Indicating what? What</p> <p>19 are you holding up?</p> <p>20 MS. O'DELL: This is his report.</p> <p>21 THE COURT: Who's "his"?</p> <p>22 MS. O'DELL: This is Dr. Sanchez,</p> <p>23 who's the upcoming witness.</p> <p>24 THE COURT: Okay.</p> <p>25 MS. O'DELL: His report is dated</p>

- KLEINER -vs- JOHNSON & JOHNSON - Page 89	- KLEINER -vs- JOHNSON & JOHNSON - Page 91
<p>1 May 8, 2020. This is his employer, RJ Lee 2 Group. 3 THE COURT: Okay. So what are you 4 calling Dr. Sanchez to testify to? 5 MS. POLE: He's going to testify -- 6 this is what the plaintiff put up, Demonstrative 7 No. 1 means -- Ms. O'Dell wrote this up. 8 Dr. Rigler talked about IARC 2012; that it was a 9 Group 1 known carcinogen. He talked about talc 10 fibers, asbestiform talc, and Dr. Sanchez is 11 going to rebut that. This is what she put up. 12 This was the exhibit that she created during 13 Dr. Rigler's testimony, and we have a right to 14 come in and rebut that. And that's one of the 15 things that he's going to do. And that's why 16 he's going to refer to IARC 2012. 17 THE COURT: But what about the 18 objection that you had all this information 19 before Dr. Sanchez wrote his expert report and 20 he doesn't address it in his expert report? 21 I agree that you have a right to have 22 someone rebut what Rigler said. But why is it 23 Sanchez if Sanchez never talked about this stuff 24 in his report? 25 MS. POLE: Sanchez does talk about it</p>	<p>1 follow the court officer's direction. 2 LAW CLERK: All rise as the jury 3 exits. 4 - - - 5 (Whereupon the jury panel exited the 6 courtroom at 3:30 p.m.) 7 - - - 8 (The following transpired in open 9 court outside the presence of the jury panel:) 10 - - - 11 LAW CLERK: You may be seated. 12 THE COURT: Okay. Where we left off 13 at sidebar, the plaintiff has an objection 14 saying that Dr. Sanchez, the next witness up, 15 never expressed an opinion in his expert report 16 regarding "fibrous talc." And the defense says 17 yes, he did. So now we're going to let the 18 defense demonstrate where it appears in the 19 report. 20 You ready to do that? 21 MR. SCHWARTZ: Yes, Your Honor. 22 This -- he's -- Dr. Sanchez has 23 submitted two expert reports in this case. One 24 on November 4th, 2019, and one on May 8, 2020. 25 And these studies go through in detail about the</p>
- KLEINER -vs- JOHNSON & JOHNSON - Page 90	- KLEINER -vs- JOHNSON & JOHNSON - Page 92
<p>1 in his expert report. 2 THE COURT: Just tell me where. 3 MS. POLE: I'll -- I don't have it up 4 here with me. 5 MR. SCHWARTZ: I have it. 6 MS. POLE: You have it? 7 MS. O'DELL: If you can tell me where 8 2012, IARC 2012 -- 9 THE COURT: Okay. All right. Let's 10 go back to our respective corners. 11 MS. POLE: Okay. 12 THE COURT: Go ahead. 13 - - - 14 (Sidebar discussion concluded.) 15 - - - 16 (The following transpired in open 17 court in the presence of the jury panel:) 18 - - - 19 THE COURT: The lawyers actually 20 weren't ready for you to come back in. So we'll 21 have to put you back in the jury room for 22 another ten minutes or so. 23 JURY PANEL: Okay. 24 THE COURT: It shouldn't be too long. 25 We might be able to bring you back sooner. Just</p>	<p>1 fact that talc is not asbestos. It's not in -- 2 THE COURT: I'm sorry. What studies 3 are you talking about? 4 MR. SCHWARTZ: I'm sorry? 5 THE COURT: The subject of the 6 sentence was his reports, and then you shifted 7 to "these studies." What studies are you 8 talking about? 9 MR. SCHWARTZ: Oh, these reports. 10 Excuse me. They talk about where talc is mined, 11 how it is mined. They talk about the different 12 kinds of fibers that you can find in talc, 13 asbestiform particles, and what have you. 14 And I don't know if he uses "fibrous 15 talc." I can look. But that's a made-up term 16 that they're using. And that's what he's going 17 to come up here and explain, the difference 18 between talc particles and talc fibers and 19 asbestiform talc. And that's what Dr. Rigler 20 came up here and testified about. 21 His opinions are primarily about 22 asbestos, but then he has these opinions about 23 talc fibers that he brought to the Court, so -- 24 THE COURT: Who's "he"? 25 MR. SCHWARTZ: Dr. Sanchez is going</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 93</p> <p>1 to respond to all those.</p> <p>2 THE COURT: When you say "he" has,</p> <p>3 who's he?</p> <p>4 MR. SCHWARTZ: Dr. Sanchez is going</p> <p>5 to come testify.</p> <p>6 THE COURT: Yeah. But you said he</p> <p>7 has opinions about asbestos and about something</p> <p>8 else. Are you talking about Sanchez or are you</p> <p>9 still talking about Rigler?</p> <p>10 MR. SCHWARTZ: Okay. So Dr. Sanchez</p> <p>11 issued reports that go through in detail how</p> <p>12 talc particles are mined, the kinds of</p> <p>13 particles --</p> <p>14 THE COURT: I got that the first</p> <p>15 time.</p> <p>16 MR. SCHWARTZ: Okay. So I'll slow</p> <p>17 down. And I've lost you. I'm sorry.</p> <p>18 THE COURT: No. It's not a question</p> <p>19 of slowing down. It's a question of pretending</p> <p>20 you're writing instead of just speaking. We're</p> <p>21 more casual when we speak. But you shifted</p> <p>22 pronouns to "he." And I don't know who the "he"</p> <p>23 referred to, Rigler or Sanchez.</p> <p>24 MR. SCHWARTZ: And I don't know where</p> <p>25 I lost you, so I'm sorry. That's why I was</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 95</p> <p>1 THE COURT: Well, for the record, the</p> <p>2 two slides that are objected to are what?</p> <p>3 MS. O'DELL: Slide No. 31, and I have</p> <p>4 a question for defense regarding Slide No. 17,</p> <p>5 and then there's also a slide that I don't have</p> <p>6 the slide number for.</p> <p>7 THE COURT: Did you want us to hear</p> <p>8 all of that? Because the last part was</p> <p>9 delivered away from the microphone.</p> <p>10 MS. O'DELL: Excuse me, Your Honor.</p> <p>11 I apologize.</p> <p>12 So we have an objection to Slide No.</p> <p>13 31 that mentioned IARC 2012, and also to Slide</p> <p>14 No. 10 that mentions the IARC Monograph dated</p> <p>15 2012, which is not listed in Dr. Sanchez's</p> <p>16 reliance materials, in any of his reports, to my</p> <p>17 review. And if counsel can point me to where</p> <p>18 I'm in error, I'll acknowledge that. But I have</p> <p>19 looked everywhere, and it's not there.</p> <p>20 And so our objection is that he</p> <p>21 shouldn't be able to come in and testify to IARC</p> <p>22 2012, because the defendants have been on notice</p> <p>23 since 2018 about those opinions in relation to</p> <p>24 talc fibers and asbestos from all of the</p> <p>25 plaintiffs' experts.</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 94</p> <p>1 reorienting.</p> <p>2 The point is, Dr. Sanchez has these</p> <p>3 very detailed reports where he talks about the</p> <p>4 mining and the contents of talc. Dr. Rigler</p> <p>5 came and talked about the contents of talc and</p> <p>6 that he found all these talc fibers. And</p> <p>7 Dr. Sanchez, consistent with these opinions,</p> <p>8 he's going to explain it. These aren't</p> <p>9 asbestiform fibers that he found. These are</p> <p>10 talc particles that he found; that he being</p> <p>11 Dr. Rigler found. They're talc particles that</p> <p>12 Dr. Rigler found.</p> <p>13 So this is within the fair scope of</p> <p>14 his report. They knew that's what he's going to</p> <p>15 come talk about today. And, you know, we can</p> <p>16 provide the report to you so you can look at it.</p> <p>17 But this would be all in the fair scope of his</p> <p>18 report 100 percent.</p> <p>19 THE COURT: And these two slides are</p> <p>20 based on what you just described?</p> <p>21 MR. SCHWARTZ: I don't know what</p> <p>22 specific slides are being objected to. I also</p> <p>23 heard an objection to IARC 2012, so --</p> <p>24 MS. O'DELL: And, yes, Your Honor,</p> <p>25 let me just --</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 96</p> <p>1 And so Dr. Sanchez has not disclosed</p> <p>2 any specific opinions about talc fibers.</p> <p>3 Certainly his report covers talcum powder</p> <p>4 generally. But he's really focused on in his</p> <p>5 report asbestos solely. Certainly the mining,</p> <p>6 I'm not disagreeing with counsel on that. And</p> <p>7 then he has some comments about Dr. Godleski's</p> <p>8 findings in this case.</p> <p>9 So the nature of our objection is</p> <p>10 focused on his opinions regarding talc fibers</p> <p>11 and taking Dr. Rigler's photo micrographs and</p> <p>12 criticizing them here first, and then second,</p> <p>13 his opinions regarding IARC 2012.</p> <p>14 MR. SCHWARTZ: So, Your Honor, IARC</p> <p>15 2012 is not in his report. IARC 2010 regarding</p> <p>16 talc is in his report.</p> <p>17 And I just want to explain to you --</p> <p>18 THE COURT: Well, the slide is IARC</p> <p>19 2012.</p> <p>20 MR. SCHWARTZ: Right. But I'm going</p> <p>21 to tie this all up so you can understand what</p> <p>22 we're trying to do here and what we're</p> <p>23 responding to.</p> <p>24 THE COURT: Okay.</p> <p>25 MR. SCHWARTZ: So first they had</p>

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1 Dr. Wolf come testify that IARC 2012 -- which he
2 wasn't responding to Dr. Wolf. This is their
3 gyn-onc. Dr. Wolf came in and testified that
4 IARC 2012 says that talc fiber equals
5 asbestiform talc. That's what they had her say.
6 And then they said that that's a Class 1
7 carcinogen. And Dr. Sanchez is going to explain
8 why that's wrong.
9 And then they had Dr. Rigler come in
10 and testify, Question: "Are those items, talc
11 fibers, fibrous talc and asbestiform talc, all
12 the same substance?
13 "Answer: Yes. You could call them
14 that, yes."
15 And so they're going to tie these two
16 things together and say that Johnson & Johnson's
17 talcum powder are full of cancerous asbestiform
18 talc. And Dr. Rigler [sic], who is a geologist
19 and a mineralogist and testified about these
20 things in his report, he's going to explain why
21 that's not true; that they are -- the jury is
22 being mislead in his expert opinion. So I think
23 it's fair under Pennsylvania rules for him to
24 come in and respond to those opinions.
25 **THE COURT:** Sanchez?

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1 **MR. SCHWARTZ:** Sanchez.
2 **MS. O'DELL:** And, Your Honor, he
3 certainly had opportunity to respond to those
4 opinions which were disclosed in the --
5 **THE COURT:** Yeah. What about the
6 objection that if you wanted to bring it in, you
7 should have brought it in through a supplemental
8 report?
9 **MR. SCHWARTZ:** Your Honor, Dr. Wolf
10 brought this in on her direct testimony. I
11 don't know where this is in Dr. wolf's expert
12 report for him to respond to.
13 **MS. O'DELL:** That's just a
14 demonstrative, Your Honor. In Dr. Wolf's
15 report, she references both IARC 2010, which is
16 platy talc, and IARC 2012, which is talc fibers.
17 And that's been in there since November of 2018;
18 and I know that personally.
19 And so if they wanted Dr. Sanchez to
20 respond to those opinions, they had full
21 opportunity to do that, and they could have had
22 him amend his report. He did two in this case.
23 One in November of 2019, another in May of 2020.
24 And there's nothing in there about that, and we
25 feel like that's improper.

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1 **MR. SCHWARTZ:** Your Honor, they
2 didn't tie this up until this trial, like this.
3 And that's what they're doing. They're going to
4 show this testimony to the jury at closing and
5 they're going to show them this demonstrative
6 and they're going to tie it up and say there's
7 these cancerous asbestiform talc particles.
8 And, you know, we should have a fair opportunity
9 to respond to that.
10 And I submit that if you look at his
11 report --
12 **THE COURT:** Yeah. I'm going to
13 overrule the objection.
14 **MR. SCHWARTZ:** Thank you, Your Honor.
15 **THE COURT:** I think they're entitled
16 to a fair opportunity to respond.
17 **MS. O'DELL:** Your Honor, if I could
18 just note for the record, they've had full
19 disclosure of this. We've had a trial with
20 these.
21 **THE COURT:** You're just repeating
22 yourself.
23 **MS. O'DELL:** Excuse me, Your Honor.
24 Just want to make sure the record is clear.
25 **THE COURT:** Okay.

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1 Was there anything else objected to
2 in those slides? So you can cover it now before
3 we bring back the jury.
4 You can go get the jury.
5 **MS. O'DELL:** Thank you, Your Honor.
6 **MR. SCHWARTZ:** Thank you, Your Honor.
7 - - -
8 (Pause in proceedings.)
9 - - -
10 **LAW CLERK:** All rise as the jury
11 enters.
12 - - -
13 (Whereupon the jury panel reentered
14 the courtroom at 3:45 p.m.)
15 - - -
16 (The following transpired in open
17 court in the presence of the jury panel:)
18 - - -
19 **LAW CLERK:** You may be seated.
20 **THE COURT:** All right. It's still
21 the defense's turn.
22 You have a witness.
23 **MS. POLE:** Yes, Your Honor.
24 The Johnson & Johnson defendants
25 would call Dr. Matthew Sanchez to the stand,

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 101</p> <p>1 please. 2 (Witness took the stand.) 3 THE COURT: Oh, before we get 4 started, let me ask the jury. 5 You can have a seat. 6 I was talking to the lawyers about 7 scheduling while you were out of the room. And 8 if possible, everybody would like to go past 9 4:30 to 5:00. But I won't do that if anybody 10 objects, because I know at the outset we 11 promised you 4:30. Just raise your hand if 12 5:00 is a problem. 13 A couple hands went up. So regular 14 quitting time, 4:30. 15 MS. POLE: Yes, sir. 16 LAW CLERK: Please stand and raise 17 your right hand. 18 Do you swear or affirm the testimony 19 you're about to give is the truth, the whole 20 truth, and nothing but the truth? 21 THE WITNESS: Yes. 22 LAW CLERK: Thank you. Please state 23 your full name for the record. 24 THE WITNESS: Matthew Spencer 25 Sanchez.</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 103</p> <p>1 microscopy to identify particulate. 2 Q. Are you a geologist? 3 A. I am. 4 Q. Are you a mineralogist? 5 A. I am. 6 Q. Can you tell -- describe what it means to be a 7 geologist? And what is geology? 8 A. I'll try to be succinct with this. 9 Geology is a broad field of study. 10 Roughly it's the study of the Earth. So within 11 geology, there's all sorts of subdisciplines in 12 areas where you could do research and you could, you 13 know, focus your attention. Some geologists will 14 study, you know, volcanos. Some geologists study 15 specific types of rocks. Other geologists may study 16 earthquakes. Again, my focus is in minerals and 17 then certain types of mineral groups. 18 Q. So your subspecialty is in the field of 19 mineralogy -- 20 A. Right. 21 Q. -- is that right? 22 A. That's correct. 23 Q. Would you explain to the jury what that field 24 means? What is mineralogy? 25 A. Yes.</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 102</p> <p>1 - - - 2 ... MATTHEW SANCHEZ, Ph.D., after 3 having been first duly sworn, was examined and 4 testified as follows: 5 - - - 6 LAW CLERK: Thank you very much. You 7 may be seated. 8 MS. POLE: May I proceed, Your Honor? 9 - - - 10 VOIR DIRE 11 - - - 12 BY MS. POLE: 13 Q. Good afternoon, Dr. Sanchez. 14 A. Good afternoon. 15 Q. Would you please introduce yourself to the jury 16 and tell the jury what you do for a living? 17 A. Yes. 18 So my name, as I stated earlier, is 19 Matthew Sanchez. I have a Ph.D. in geology with 20 emphasis in a field called mineralogy. I've been 21 working professionally since about 2007. A lot of 22 my work primary -- the primary focus of my work is 23 the identification of minerals, testing of minerals 24 like talc, looking for asbestiform particles, things 25 of that nature, as well as kind of doing general</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 104</p> <p>1 So whenever you go out and you pick 2 up a rock, it's going to -- a lot of rocks, you'll 3 see it will have different colored crystals inside 4 of it. Those crystals are different minerals. So 5 that's what I would be -- that's what I study. You 6 know, whether you get into, you know, soil or dirt, 7 it's going to be composed of a lot of minerals, you 8 know, these rocks that have broken down. So the 9 study of mineralogy is these minerals, the crystal 10 structures of the minerals; what the minerals are 11 made out of; what makes them a certain color; what 12 makes them certain shapes; how the minerals may 13 break; what we can use the minerals for. 14 Some minerals we can use for, you 15 know, to refine to use for getting raw materials to 16 make electronics. Some minerals we just use to make 17 roads out of. So, again, there's a whole host of 18 areas of how we use minerals in our society. 19 Q. So plaintiffs have offered -- well, plaintiff 20 did offer the testimony of a microbiologist in this 21 case, Dr. Mark Rigler, who testified or claimed to 22 find talc fibers in J&J talcum powder. 23 Are you familiar with Dr. Rigler? 24 A. Generally, yes. 25 Q. And are you also aware that the plaintiffs have</p>

<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 105</p> <p>1 been raising issues about talc fibers and 2 asbestiform talc in this case? 3 A. I am. 4 Q. Did we ask you to come here today to talk to 5 the jury about talc fibers and asbestiform talc? 6 A. Yes, you did. 7 Q. And will you be talking about testing of 8 Johnson & Johnson talcum powder products for talc 9 fibers and asbestiform talc? 10 A. I will be. 11 Q. And are you also familiar with plaintiffs' 12 expert lung pathologist, Dr. John Godleski? 13 A. In as far as his SEM analyses for the presence 14 of talc in tissue, yes. 15 Q. Will you be discussing your opinions about 16 whether Dr. Godleski found talc particles and a talc 17 fiber in Ms. Kleiner's tissue? 18 A. I will be. 19 Q. Dr. Sanchez, did you assist the Johnson & 20 Johnson defendants in preparing a PowerPoint 21 presentation? 22 A. I did. 23 Q. And will this presentation assist you in giving 24 your opinions to the jury? 25 A. In part, yes.</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 107</p> <p>1 (Document published on screen.) 2 BY MS. POLE: 3 Q. Dr. Sanchez, does this slide accurately reflect 4 your educational background? 5 A. Yes, it does. 6 Q. And can you describe for the jury, please, your 7 course of study and research from your undergraduate 8 studies through your master's and then your 9 doctorate? 10 A. Yeah. 11 So my formal education, as I stated 12 again, is in geology with emphasis in mineralogy. 13 The work I did towards the end of my bachelor's 14 degree and then as part of the requirements for the 15 master's and doctorate degrees in geology requires 16 dissertations. The focus of the dissertation was 17 primarily dealing with asbestiform minerals about a 18 mine in Northern Montana, near Libby, Montana. 19 But as far as the coursework, the 20 coursework was heavily focused in mineral sciences. 21 This deals with characterization, how to identify 22 minerals, differences in different mineral systems, 23 and also the analytical instrumentation, the types 24 of microscopes, so the different types of -- there's 25 all sorts of different ways we study minerals,</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 106</p> <p>1 MS. POLE: Your Honor, we have marked 2 this PowerPoint presentation as Defendants' 3 3137. We've provided a copy to plaintiff 4 counsel. And we'd ask that we be allowed to 5 display it for the jury as Dr. Sanchez 6 testifies. 7 MR. DEARING: No objection, other 8 than the ones we've already made, Your Honor. 9 (Exhibit DX-3137, PowerPoint 10 presentation prepared by Dr. Sanchez, marked for 11 identification.) 12 THE COURT: Okay. Have you qualified 13 him as an expert? 14 MS. POLE: I am going -- I was about 15 to. No, I haven't at this point. I have not 16 yet, Your Honor. 17 THE COURT: Okay. Just checking. I 18 thought maybe I missed something. 19 MS. POLE: No, you didn't miss it. 20 No, you did not. 21 THE COURT: All right. 22 BY MS. POLE: 23 Q. So I'd like to discuss your qualifications. 24 Can we have Slide 1, please? 25 (Technician complies with request.)</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 108</p> <p>1 including, you know, with different types of 2 microscopy, both light and electron microscopy. 3 As far as my employment history, when 4 I completed my master's degree, I went to work for 5 the same company I work for now, called the RJ Lee 6 Group. I was primarily hired on because of my 7 knowledge of microscopy and minerals, how they 8 relate to each other. 9 Through time within the company, I've 10 had different promotions as opportunities allowed 11 and things have presented themselves to me. In 12 about 2015, I started accepting some work as an 13 expert witness in litigation, primarily dealing with 14 talc issues. And since about that time, I've been 15 heavily involved in various litigation for Johnson & 16 Johnson and other -- and another client. 17 Part of the work that I do is also 18 attending and participating in different 19 professional societies. My role in those societies 20 varies. I've given presentations at their meetings. 21 I review papers for peer review in order for 22 publications. I also work with a few different 23 entities working on standards for primarily 24 microscopy test methods. 25 Q. So is it true that you've published more than</p>

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1 **30 publications, including on the identification,**
2 **characterization, and quantification of asbestiform**
3 **fibers and other minerals?**
4 A. In part, yeah. So just make a distinction, I
5 have I think it's a little over -- it's over 12
6 peer-reviewed publications dealing with mineral
7 identification and asbestiform minerals. As we move
8 the rest of those -- the rest of those are like
9 presentations at professional conferences.
10 **Q. Okay. So where did you receive your degrees?**
11 A. Oh, sorry. So as I mentioned the years, I
12 received all my degrees, I finished my bachelor's at
13 the University of Idaho. It's up in the panhandle
14 up in Northern Idaho. And I also completed my
15 master's and Ph.D. there as well.
16 **Q. Okay. So let's briefly talk about the**
17 **memberships listed on this slide.**
18 **The first one is the -- the first one**
19 **that I can see is the USP talc expert panel. That's**
20 **the last one actually. Do you see that one?**
21 A. I do.
22 **Q. Can you tell the jury what that is and what**
23 **your role is?**
24 A. Yes. The "USP" stands for the United States
25 Pharmacopeia. And that probably didn't help. But

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1 what it is, is it's a standard setting organization
2 that works with the FDA for all -- all ingredients
3 and things that go into pharmaceuticals, into drugs.
4 I'm part of an expert panel. We're working through
5 what's the -- how talc is tested in order to bring
6 that method up to date and modernize that. So I'm
7 part of a group of other -- part of a group of
8 expert panel, as it's called, while working on that
9 effort for the past, I guess, six years now.
10 **Q. So how are you ultimately selected to**
11 **participate in this USP talc expert panel?**
12 A. Yeah. The USP had put out a kind of a call for
13 experts. They were looking for individuals with
14 expertise in this area to help them go through and
15 do what the FDA had asked them to do. So it was
16 similar to like applying for a job. I sent in my
17 resume. I sent in, you know, a what do you call it?
18 Statement of interest or that's -- I think that's
19 not the right word I'm looking for, but statement of
20 intent, as well as my, you know, kind of my
21 Curriculum Vitae or my background information. And
22 then there was some panel within USP that chose me
23 and got back with me and accepted me onto that.
24 **Q. Did you disclose that you are an expert in talc**
25 **litigation?**

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1 A. I did. And I do. That's part of the process
2 is also disclosure of potential conflicts of
3 interest.
4 **Q. So what is the American Society for Testing**
5 **Materials, or ASTM? I see that under memberships on**
6 **this slide.**
7 A. Yeah. That's a very large organization, but it
8 deals with standardizing test methodologies. And
9 the -- I guess an example of that would be if -- I
10 think the organization started years ago when there
11 was issues with steel manufacturing. So years ago
12 if you would buy steel from one company versus
13 another company, the quality of that product, that
14 steel, would be vastly different. So if you
15 actually need steel to perform in a certain way for
16 a certain application, you know, you never knew what
17 you were going to get depending on which
18 manufacturer you may be getting it from.
19 **Q. So --**
20 A. One of the reasons for that is different
21 manufacturers at that time would have used different
22 types of testing, different test methods to give
23 results to their clients. So the ASTM purpose is to
24 try to get standardized tests. So different people,
25 different laboratories doing -- are doing the same

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1 test, therefore, the results would be comparable,
2 and kind of trying to create a standardization
3 across industries.
4 **Q. So how are you involved in ASTM?**
5 A. Right. My involvement deals with air quality
6 committees dealing with asbestiform minerals,
7 primarily dealing with microscopy and different ways
8 that we can test for asbestiform minerals in
9 different matrices, be it air, be it water, soil,
10 dust, both mineral powders like talc or other
11 minerals.
12 **Q. And there are two others on the membership on**
13 **this slide anyway.**
14 **What is the Mineralogical Society of**
15 **America?**
16 A. It's a scientific organization. It just had
17 its 100th birthday two years ago, which is devoted
18 primarily to the mineralogical sciences. So, again,
19 it's the advancement educational outreach that
20 provides a journal for publication. That's one of
21 the premier mineralogical organizations in the
22 world.
23 So, again, it's a place where
24 scientific information is shared. They do have
25 conferences where researchers can come and present

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1 information and, you know, share information and
2 work through problems.
3 **Q. So how are you involved in the Mineralogical**
4 **Society of America?**
5 A. Yeah. My involvement at this point is
6 primarily I'm a member. We pay dues every year.
7 Part of my interest, I also get involved with what I
8 mentioned earlier, some of the peer-review process
9 there, where there are papers that are submitted for
10 publication and areas where I have interest and
11 expertise, I will -- occasionally I'll be asked to
12 actually review those anonymously to help improve
13 and try to make sure those publications are as
14 correct as possible.
15 **Q. Okay. And finally, what is the Geologic**
16 **Society of America?**
17 A. It's similar to the Mineralogical Society in
18 function. It's just a much larger organization.
19 You're much more likely to encounter, you know,
20 geology -- in my area of study of the Earth, you
21 know, mineralogy is a very -- is a narrow
22 subdiscipline. Geology is concerned about kind of
23 the whole science. So it's a much larger
24 organization, much broader focus.
25 **Q. So how are you involved in this organization,**

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1 **the Geologic Society of America?**
2 A. Similar to what I described with the MSA, or
3 Mineralogical Society of America, attending meetings
4 when asked. They have various publications through
5 the GSA. If asked, I could serve as a peer reviewer
6 if appropriate.
7 **Q. GSA meaning Geological Society of America?**
8 A. Yes.
9 **Q. Okay. So I think you mentioned that you became**
10 **employed by RJ Lee in 2007?**
11 A. That's correct.
12 **Q. And that was after you completed your master's;**
13 **would that be correct?**
14 A. That's correct, yes.
15 **Q. How did you end up starting your career at RJ**
16 **Lee?**
17 A. Just -- I mean, it's a long story in itself.
18 But I was doing research as a graduate student on my
19 master's dealing with this mine -- this mining
20 environment up in Northern Montana, a few hours from
21 where I lived at that time. The owner of the RJ Lee
22 Group, his name is Richard Lee. He came to the
23 University of Idaho to get some samples, some
24 specimens from that mine from my -- my graduate
25 advisor. So I met Dr. Lee at that point. And then

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1 he actually -- he encouraged me to apply for a job
2 at his company when I finished; and I did. And I
3 felt that was the best offer I had at the time.
4 **Q. Okay. So this slide, and to the extent that**
5 **you have not already gone over that, but this slide**
6 **lists different levels of experience and positions**
7 **that you've held at RJ Lee over the years.**
8 **So can you just briefly describe how**
9 **your career has advanced at RJ Lee over the years**
10 **since you've been employed there?**
11 A. Yeah. I mean, I started there as kind of as a
12 staff scientist working in certain areas as support
13 for various work that was being done. Over time,
14 other opportunities presented themselves. There
15 were some retirements, and I was -- and they asked
16 if I would fulfill these other roles within the
17 company. And for some of them I've agreed to; and
18 they're listed here.
19 **Q. Okay. So you started as a scientist in 2007.**
20 **And your present position is principal investigator?**
21 A. That's correct.
22 **Q. And that's something you've held -- a position**
23 **you've held since 2015; is that right?**
24 A. That's correct.
25 **Q. So does RJ Lee -- well, what is the business of**

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1 **RJ Lee Group?**
2 A. We do -- the company does a lot of things. My
3 area that I focus in deals in microscopy with
4 minerals, you know, geologic materials. I've also
5 been involved with issues involving coal as part of
6 my work. I've done a variety of things there. As a
7 company on a whole, we -- we do a lot of particle
8 characterization. This could be from air samples.
9 We do a lot of failure analysis, meaning, you know,
10 if you have a bridge and it's collapsed, we've
11 gotten involved in some of those cases where what is
12 the cause, why did it fail, you know, things of that
13 nature.
14 After, you know, it just comes to
15 mind with the anniversary of 9/11. After 9/11, RJ
16 Lee Group was heavily involved with understanding
17 the World Trade Center dusts next to Ground Zero and
18 some other buildings close to there that were
19 heavily impacted with that. That work went on for
20 years.
21 We have areas of the company that
22 work hand in hand with the Department of Defense
23 doing database management with software systems. So
24 we do quite a few different things.
25 **Q. So does RJ Lee have any accreditations? And if**

<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 117</p> <p>1 so, what are they?</p> <p>2 A. Yeah. We hold many accreditations depending on</p> <p>3 the area of focus. So laboratories that I work in,</p> <p>4 we have accreditations for through the American</p> <p>5 Industrial Hygiene Association, through NIST. We</p> <p>6 have ISO accreditation for certain analyses as well.</p> <p>7 Q. So are you accredited through various state</p> <p>8 environmental accreditation programs?</p> <p>9 A. Yes. We have accreditations with the</p> <p>10 Pennsylvania Department of Environmental Protection,</p> <p>11 as well as New York state and some -- and various</p> <p>12 other states around the country.</p> <p>13 Q. And where is RJ Lee principally located?</p> <p>14 A. Yeah. We're located just outside of</p> <p>15 Pittsburgh, on the other side of the state.</p> <p>16 Q. So is RJ Lee also a registered FDA laboratory?</p> <p>17 A. For certain -- certain departments, yes.</p> <p>18 Q. And what does that mean?</p> <p>19 A. There are certain -- we have a group that works</p> <p>20 with some pharmaceutical clients, which some of the</p> <p>21 testing they perform on behalf of that client</p> <p>22 requires them to be FDA registered.</p> <p>23 Q. So --</p> <p>24 MS. POLE: May I have the next slide,</p> <p>25 please?</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 119</p> <p>1 MS. POLE: So may I have the next</p> <p>2 slide, please, Slide 3? And that's Slide 3 in</p> <p>3 Defendants' 3137.</p> <p>4 (Technician complies with request.)</p> <p>5 (Document published on screen.)</p> <p>6 BY MS. POLE:</p> <p>7 Q. So you see some tools there. Are these</p> <p>8 analytical tools that geologists like yourself use</p> <p>9 to identify particles?</p> <p>10 A. These are some of them. These are the primary</p> <p>11 ones that we would use to deal with ground mineral</p> <p>12 powders.</p> <p>13 Q. Okay. So the jury has heard about polarized</p> <p>14 light microscopy and X-ray diffraction. They've</p> <p>15 heard about scanning electron microscopy and</p> <p>16 transmission electron microscopy. Are you</p> <p>17 proficient, Dr. Sanchez, at using all of those</p> <p>18 analytical tools?</p> <p>19 A. I am.</p> <p>20 Q. Do you regularly personally yourself use all of</p> <p>21 those tools to analyze microscopic particles?</p> <p>22 A. I've used all these tools. Most of my work now</p> <p>23 I don't spend as much time on the microscopes as I</p> <p>24 would have five, six, seven years ago. But I am</p> <p>25 familiar with all these tools and how they're used.</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 118</p> <p>1 (Technician complies with request.)</p> <p>2 (Document published on screen.)</p> <p>3 BY MS. POLE:</p> <p>4 Q. So has RJ Lee and have you done work for</p> <p>5 government agencies?</p> <p>6 A. Yes.</p> <p>7 Q. And is that work reflected on the slide that</p> <p>8 the jury is looking at now?</p> <p>9 A. Some of the entities we've done work with in</p> <p>10 the past, yes.</p> <p>11 Q. So would it be fair to say that the National</p> <p>12 Institutes of Health, the National Institute for</p> <p>13 Occupational Safety and Health, the EPA, the CDC,</p> <p>14 NASA, and other prominent government organizations</p> <p>15 listed on this slide have come to you and RJ Lee for</p> <p>16 analysis of particles; would that be fair?</p> <p>17 A. Some of them, yes. Some of this work is</p> <p>18 outside of the microscopy work we would do. They</p> <p>19 would be more database management work. Or in some</p> <p>20 instances, we've actually managed laboratories at</p> <p>21 various sites for like the Department of Energy</p> <p>22 through contracting, where we're doing the</p> <p>23 management of the laboratory structure on their</p> <p>24 behalf.</p> <p>25 Q. All right.</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 120</p> <p>1 I routinely review data from these instruments. I'm</p> <p>2 capable of going and using all these instruments to</p> <p>3 get the data I need as well.</p> <p>4 Q. So are you qualified to use these tools to</p> <p>5 analyze microscopic particles?</p> <p>6 A. Yes, I am.</p> <p>7 Q. Now, the jury has not heard much about</p> <p>8 macroscopic examination. Are you familiar with that</p> <p>9 type of examination?</p> <p>10 A. Yes, I am.</p> <p>11 Q. What is macroscopic examination?</p> <p>12 A. Yeah. In the context of here, you know, we're</p> <p>13 talking about -- when we talk about a talcum powder,</p> <p>14 you know, at one point that was a rock that has just</p> <p>15 been ground into a powder. So the macroscopic</p> <p>16 examination, this is something that would be</p> <p>17 happening, this would be work that would be done</p> <p>18 before those rocks were ever processed, before those</p> <p>19 rocks were ever crushed up to create that finished</p> <p>20 powder.</p> <p>21 Q. Why is macroscopic examination relevant in your</p> <p>22 field?</p> <p>23 A. Yeah. If you -- in many ways, if you want to</p> <p>24 know what something is, it's easier to know what it</p> <p>25 is before you crush it into small particles,</p>

<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 121</p> <p>1 especially when we start talking about the 2 morphology or the shape. A term will come up is 3 "habit." 4 When we want to know how these 5 crystals have formed in nature, the easiest way to 6 do it is to look at them before you've turned them 7 into a fine powder. 8 Also, as you're going in the mining 9 environment and selecting your ores, selecting where 10 you're mining, you do that in part through this 11 physical examination of the rocks before you would 12 ever process it. 13 Q. So you mentioned a term that we'll probably get 14 to again, and that is "habit." 15 What does that term mean in geology 16 or mineralogy? 17 A. Yeah. So the term -- the term "habit" deals 18 with how a mineral is crystallized in nature, 19 meaning how did it form? How did -- what does it 20 look like? If you go pick up a rock, what do the 21 minerals look like? 22 So there's all sorts of conditions 23 and factors that go into that control how minerals 24 grow, what minerals appear to be. So the habit is a 25 term used when you're describing what that is.</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 123</p> <p>1 A. Yes, we have. 2 Q. And what kinds of materials have you tested for 3 J&J over the years? 4 A. My personal involvement has been primarily 5 talc, looking at pretty much their talc powders, 6 testing the talc powders in various ways. I mean, 7 before Johnson & Johnson accepts a talc for use in 8 production, they have a series of requirements that 9 it must meet. Those are laid out in part by the USP 10 that I discussed earlier. But, again, they have 11 requirements that must be met in order for that talc 12 to be accepted for use. 13 So the role of RJ Lee Group starting 14 in about 2009 was testing of those -- of the talc 15 for various attributes in order for Johnson & 16 Johnson to accept it for use. 17 Q. When you were working for J&J testing talc, 18 before your work as an expert in litigation, what 19 tools did you use? 20 A. My involvement primarily dealt with powder 21 X-ray diffraction, polarized light microscopy and 22 transmission electron microscopy. 23 Q. And have you used those same tools in your 24 expert analyses? 25 A. Yes, I have.</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 122</p> <p>1 So the term "asbestiform" is 2 describing a habit, meaning how did the mineral 3 crystallize in the rock. These terms like "platy" 4 or "lamellar" or -- there's all sorts of terms that 5 convey meaning without having to actually see 6 something. 7 And, again, this -- this -- this 8 arrives from the nature of mineralogy and geology 9 being a natural science. Like, as a mineralogist, 10 I'm describing nature. So as you pick up a rock, as 11 you look under microscopes, you're describing 12 natural things, and so there's a whole set of 13 vocabulary that is associated with that, that 14 conveys meaning to other scientists trained in that 15 field. 16 Q. When you say "habit," H-A-B-I-T, that's what 17 you're discussing? 18 A. That's correct. 19 Q. And it has a meaning for geologists and 20 mineralogists; is that right? 21 A. That's correct. 22 Q. Are you proficient at macroscopic examination? 23 A. Yes, I am. 24 Q. Has RJ Lee performed work for Johnson & Johnson 25 over the years?</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 124</p> <p>1 Q. Did RJ Lee ever find asbestiform talc in J&J's 2 talc supply under this program? 3 A. No. 4 Q. So has J&J from time to time performed audits 5 on RJ Lee itself? 6 A. Yes, they have. 7 Q. And has J&J ever identified issues of 8 deficiencies in its audits of the RJ Lee lab? 9 A. Yes; on occasion. 10 Q. And were those deficiencies dealt with by RJ 11 Lee? 12 A. Yes. As part of the audit process, it requires 13 a response. And from the laboratory's perspective, 14 again, when we have audits from any -- whether it's 15 an accrediting body or a client like Johnson & 16 Johnson, where they raise concerns about either our 17 procedures or practices or other things that they 18 observe, you know, we work to correct those things 19 through training, potentially through purchase of 20 new equipment, or whatever it takes to resolve those 21 deficiencies through the audits in order to continue 22 that relationship. 23 Q. So what does it say to you, as a person testing 24 J&J's talc, that J&J performs regular audits of RJ 25 Lee?</p>

<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 125</p> <p>1 A. Well, from my -- I mean, we do -- we do work 2 for a lot of different companies. They're one of 3 the few that actually come in and audit us 4 independently that don't just rely upon our audits 5 through our accreditations. 6 Q. So does that mean to you that J&J takes its 7 talc safety seriously? 8 A. Again, I can't speak for J&J, but as I -- my 9 experience is very few of our clients will come in 10 and spend the money, spend the time to come and 11 audit us for the work that we do for them. They're 12 one of the few that do that on a regular basis. 13 Q. Okay. So at some point you began to perform 14 expert work for Johnson & Johnson. 15 Did you become a geologist, a 16 mineralogist with a Ph.D. so that you could become 17 an expert in litigation? 18 A. No. That was not my -- that was not the reason 19 I switched majors and became -- and focused on 20 mineralogy. 21 Q. Did J&J ask you, as someone who has tested its 22 talc products, to come and explain to juries what 23 might be in the product and your conclusions about 24 the geologic attributes of talc? 25 A. Yes, they did. The main reason I accepted this</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 127</p> <p>1 Q. Do you have any ownership interest in RJ Lee? 2 A. I do not. 3 Q. So circling back to the concept of macroscopic 4 examination, have you personally visited some of the 5 talc mines that you're going to discuss today? 6 A. Yes, I have. 7 MS. POLE: If we could have Slide 4, 8 please, of DX-3137. 9 (Technician complies with request.) 10 (Document published on screen.) 11 BY MS. POLE: 12 Q. Is that you in this picture? 13 A. Yes. That is me from work I did -- I'm not 14 going to talk specifically about this mine. But 15 this was me at a talc mine in Italy back in 2015. 16 Q. And so what is that behind you? 17 A. That is talc. 18 Q. Okay. And that's it in nature? 19 A. Right. There's some other things there as well 20 that -- well, it's kind of hard to see there. 21 There's some darker mineralization here and a little 22 kind of a lentil-shaped or kidney-shaped piece 23 there. Those are non-talc rocks. But the majority 24 of what's behind me is the talc ore. 25 Q. Okay. And if we could have Slide 5 of DX-3137,</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 126</p> <p>1 work was the fact that I had tested their talc for 2 years at that point. And hearing some of the 3 allegations that were brought up, that was not -- 4 that is not what I had seen in their talc. And that 5 was one of the reasons I agreed to begin working in 6 this field. 7 Q. And accepting some of those assignments? 8 A. Accept some of the retentions, yes. 9 Q. Are you being compensated for your time today, 10 Dr. Sanchez? 11 A. Yes, I am. 12 Q. And what does RJ Lee charge Johnson & Johnson 13 for this time -- your time away from your 14 laboratory? 15 A. Yeah. I believe that my company charges for -- 16 my billable rate in litigation, I think it's \$550 an 17 hour. 18 Q. Are you a salaried employee at RJ Lee? 19 A. I am. 20 Q. Is any of your compensation tied to your 21 litigation work? 22 A. Some of it is, yes. I have a base salary, and 23 then I have a bonus structure based upon bill -- all 24 billable work that I have, be it in litigation or 25 outside of.</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 128</p> <p>1 please. 2 And where -- I take it that's you, 3 the tall one? 4 A. Well, it's all relative to who I'm standing 5 next to, but... 6 Q. Yeah. And where are you, in terms of 7 geographically, where are you in this picture? 8 A. This is one of the -- this is a mine in -- one 9 of the talc mines in Guangxi, China. This is one of 10 the mines or the main mine that supplies talc to 11 Johnson & Johnson. 12 Q. And what is that on the right? What's 13 happening there? 14 A. Yeah. So that's my hand. That's -- yeah, my 15 hand. Again, this is the -- this is the talc ore. 16 This is actually down in the talc pit, which is hard 17 to see, but it's behind us there from that 18 viewpoint. That's me actually climbing over the 19 talc ore looking -- looking at the talc before it's 20 processed and crushed. 21 Q. And to your understanding, Dr. Sanchez, has 22 Dr. Mark Rigler ever been to any of the talc mines 23 at issue in this case? 24 A. Not to my knowledge. 25 Q. Is Dr. Rigler a geologist?</p>

<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire) - Page 129</p> <p>1 A. He is not. 2 Q. Is he a mineralogist? 3 A. He is not. 4 Q. So if we could have Slide 6, please, of 5 DX-3137. 6 (Technician complies with request.) 7 (Document published on screen.) 8 BY MS. POLE: 9 Q. So in this slide before the jury, is it 10 accurate with respect to who is a geologist, who is 11 a mineralogist, and who has been to the talc mines? 12 A. Yeah, based on my understanding, yes. 13 Q. Okay. And in your opinion, why is it important 14 that the jury hear from a geologist and a 15 mineralogist who has actually visited mines? 16 A. Well, two main reasons. We're talking about 17 talc. We're talking about minerals that may occur 18 in talc. Again, we're talking about minerals. 19 We're talking about something that occurs naturally 20 in geologic environments. We're also talking -- 21 we're going to be talking about particles that are 22 very, very small, microscopic particles seen under 23 very high magnifications, and trying to understand 24 what those particles are and where those particles 25 came from. Understanding the whole process,</p>	<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire Cross) - Page 131</p> <p>1 MR. DEARING: Okay. 2 I don't have that much cord. I'm 3 afraid I'm going to rip it out of the wall. 4 BY MR. DEARING: 5 Q. Just one question. 6 When you say you're an expert in 7 identifying particles, that does not include 8 particles in human tissue, right? 9 A. It depends on the nature of the particle. If 10 the particles are mineral in nature, then, yes, I 11 would consider myself an expert. If you're talking 12 about some organic molecule and some tissue 13 reaction, I have no expertise in that area. But as 14 far as mineral particles in human tissue, the 15 identification of minerals in human tissue is the 16 same as whether it's in a different -- it's the same 17 thing you're looking at. It's just in a different 18 matrix. 19 Q. Well, let's be specific. Are you claiming to 20 be an expert in the field of identifying talc in 21 human tissue? 22 A. Yes. 23 Q. Is that by -- which microscopy method? 24 A. Any. 25 MR. DEARING: I guess -- well,</p>
<p>- MATTHEW SANCHEZ, Ph.D. (Voir Dire Cross) - Page 130</p> <p>1 understanding the big picture down into the finest 2 particles is critical to understanding what is 3 actually in the talcum powders. 4 Q. So based upon your education, training, and 5 years of experience, are you expert in geology, 6 mineralogy, microscopy, and identifying particles 7 including asbestiform in talcum powder? 8 A. Yes, I am. 9 MS. POLE: Your Honor, at this time, 10 Johnson & Johnson defendants offer Dr. Sanchez 11 as an expert in geology, mineralogy, microscopy, 12 and identifying particles including asbestiform 13 in talcum powder. 14 MR. DEARING: May I just clarify one 15 area of expertise, Your Honor? 16 THE COURT: Sure. 17 - - - 18 CROSS-EXAMINATION ON QUALIFICATIONS 19 - - - 20 BY MR. DEARING: 21 Q. Good afternoon. 22 A. Good afternoon. 23 Q. I'm David Dearing. 24 THE COURT: Why don't you pick up the 25 microphone and stand up straight.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 132</p> <p>1 there's no foundation for that, so I would 2 object to that. But otherwise, I don't object 3 to his qualifications. 4 THE COURT: So my understanding of 5 that qualification is you're saying if you look 6 at a Chevy on the beach, you recognize it as a 7 Chevy. If you look at a Chevy on the highway, 8 you recognize it as a Chevy. If you look at a 9 Chevy in someone's garage, you recognize it as a 10 Chevy. Is that what you're saying? 11 THE WITNESS: Yes. A is A, right? 12 If it's talc in the rock and it's talc in a 13 tissue, it is still talc, yes. So your analogy 14 was good. 15 THE COURT: Yeah. Okay. 16 MR. DEARING: Your Honor, just unless 17 I missed it, I didn't hear any training or 18 education or experience with identifying 19 particles in tissue. 20 THE COURT: He says it doesn't matter 21 whether it's sitting in tissue or if it's parked 22 in my garage. He knows a Chevy when he sees 23 one. 24 MR. DEARING: Okay. Your Honor, I'll 25 address it later.</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 133</p> <p>1 Thank you. 2 THE COURT: Okay. 3 So what are we doing? 4 MS. POLE: Thank you. 5 May I proceed, Your Honor? 6 THE COURT: You're offering him again 7 as an expert in what? 8 MS. POLE: I'm offering him, Your 9 Honor, as an expert in geology, in mineralogy, 10 in microscopy, and in identifying particles, 11 including asbestiform, in talcum powder. 12 THE COURT: Every time I hear that 13 word "microscopy," I mean, you talk about trying 14 to make something sound bigger than it is. 15 Microscopy just means looking through a 16 microscope, right? 17 MS. POLE: Well, it's the science of 18 looking into a microscope. 19 THE COURT: Ah, yes. Okay. 20 (Laughter.) 21 THE COURT: He's accepted as an 22 expert. 23 MS. POLE: Thank you. 24 So, what? I got time? 25 THE COURT: Some of the people at</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 135</p> <p>1 information outside of this courtroom. 2 The information you get outside of 3 this courtroom is not subject to the Rules of 4 Evidence. It's not coming from people who have 5 been sworn to tell the truth. It's not subject 6 to cross-examination or rebuttal. You just 7 can't trust it. 8 So does anyone have anything 9 additional before the jury is released for the 10 day? 11 MS. POLE: No, sir. 12 THE COURT: Follow the court 13 officer's direction. 14 LAW CLERK: All rise as the jury 15 exits. 16 - - - 17 (Whereupon the jury panel exited the 18 courtroom at 4:24 p.m.) 19 - - - 20 (The following transpired in open 21 court outside the presence of the jury panel:) 22 - - - 23 THE COURT: All right. The witness 24 is excused. You can step down. 25 THE WITNESS: Thank you, Your Honor.</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 134</p> <p>1 counsel table have been looking at their watch 2 figuring out the same thing I did, which was -- 3 MS. POLE: I'm getting ready to go 4 into another area, Your Honor. If this is a 5 good time to break, it's fine with me. 6 THE COURT: Well, you just got into 7 the area. He just got qualified. 8 (Laughter.) 9 MS. POLE: Yes. 10 THE COURT: All the rest of this 11 stuff was interesting, but why don't we do that, 12 why don't we call it a day. He's been qualified 13 now as an expert. We'll come back tomorrow and 14 see what he has to say. 15 I remind the jury that you're not to 16 discuss this case with anyone, not even each 17 other. You can't discuss it until the trial is 18 over and you go out to deliberate. If anyone 19 tries to talk to you about this case, you should 20 report it first chance you get. Do not, do not 21 read anything in the papers or go on the 22 Internet, or if there's a mention of anything 23 about talcum powder, litigation, anything on TV, 24 just change the channel. It's just not fair to 25 either side for you to be getting additional</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 136</p> <p>1 (Witness left the stand.) 2 THE COURT: If you want to take any 3 of your things with you... 4 THE WITNESS: It's white papers and 5 two pens. I think that would be okay. 6 THE COURT: Okay. So is there 7 anything you want to do, guys? Anything we can 8 do without the jury? They're out of the room 9 now. We can discuss any objections you 10 anticipate. Or if nothing, that's fine. We'll 11 call it a day. 12 MR. SMITH: I always have a few 13 things. 14 THE COURT: Okay. Go ahead. 15 MR. SMITH: I'll be quick. 16 So, Your Honor, this is in connection 17 with just wrapping up the orders for 18 Smith-Bindman, Dr. Smith-Bindman. I think 19 there's one order that we all agree to. 20 THE COURT: Mr. Pavlo, he's calling 21 your name. Come on up. 22 LAW CLERK: Okay. 23 MR. SMITH: There's another order, 24 because we need two orders on this. I don't 25 know if there's agreement on this or not. I</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 137</p> <p>1 sent this. If not, I think you're just going to 2 have to decide because we keep going round and 3 round, Judge. But here's a copy of it. I 4 provided a copy to opposing counsel. 5 (Handing documents to the Court.) 6 THE COURT: Why don't you tell me 7 what these orders are about. 8 MR. SMITH: They're -- one is about 9 striking Dr. Smith-Bindman's opinion, the 10 opinion relating to the systematic review and 11 the meta-analysis. And then the other is 12 denying the motion for reconsideration of the 13 order striking the opinion about the systematic 14 review and the meta-analysis. 15 You have both orders. The one 16 dealing with the motion for reconsideration I 17 think is agreed upon. 18 The one dealing with striking the 19 opinion, I gave you my order. I haven't seen an 20 alternative order. 21 MR. SCHOENHAUS: Sure. I sent it to 22 you yesterday. 23 MR. SMITH: I don't recall getting 24 it. 25 MR. SCHOENHAUS: Here.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 139</p> <p>1 would say on that one, Your Honor, we'll figure 2 out a way. If you recall, we actually attempted 3 to file a motion for reconsideration, and the 4 clerk's office rejected it because there was no 5 initial order. So I guess we'll figure out a 6 way once we have an initial order. 7 THE COURT: I guess this is the 8 initial order I'm looking at now, right, the two 9 proposals? 10 MR. SCHOENHAUS: Right. And then 11 once we have that order and that order gets 12 docketed, we'll be able to file our 13 reconsideration. 14 THE COURT: Okay. Well, while you're 15 speaking, tell me the difference between these 16 two proposed orders. They both say granted in 17 part and denied in part. 18 MR. SCHOENHAUS: Right. So I -- 19 THE COURT: And then they diverge. 20 MR. SCHOENHAUS: Right. 21 So what happened is, J&J made a 22 proposal, and our problem with it is it's far 23 too broad. And Ms. O'Dell can address more 24 specifics. But this pertains to a witness who 25 testified over two weeks ago, and the way that</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 138</p> <p>1 (Handing documents to counsel and the 2 Court.) 3 MR. SMITH: And then the other issue, 4 Judge, is the curative instruction. And we 5 can't seem to agree on what the curative 6 instruction should say. 7 So my recommendation was that we both 8 give to you what we think is the appropriate 9 curative instruction and then you decide which 10 one you want to give. 11 THE COURT: Okay. Do you both have a 12 proposal? 13 MS. O'DELL: We do, Your Honor. 14 Mr. Pavlo put ours on top of your book on 15 your -- just to your right there, both our 16 alternative order and the curative instruction, 17 which we think is more closely tailored to the 18 Court's order. 19 THE COURT: All right. So defendant 20 handed up an order denying reconsideration, and 21 that's agreed, I denied reconsideration; is that 22 right? 23 MS. O'DELL: Correct. Yes, Your 24 Honor. 25 MR. SCHOENHAUS: The only thing I</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 140</p> <p>1 order is written, our concern is this jury is 2 not going to be able to figure out the specifics 3 of what Your Honor really excluded. It was a 4 limited ruling, and they're going to read 5 that -- 6 THE COURT: No. They're never going 7 to read anything. 8 MR. SCHOENHAUS: Well, but the 9 concern is they're viewed in tandem. It's hard 10 to separate the order. 11 THE COURT: You're talking about the 12 corrective instruction? 13 MR. SCHOENHAUS: The curative 14 instruction, right. So whatever language we 15 have in the order -- 16 THE COURT: Yeah. So let's just talk 17 about the order for the moment. 18 MR. SCHOENHAUS: All right. 19 THE COURT: You say the order should 20 be limited to the specific study about women who 21 use talc daily. 22 The J&J order says the risk of 23 1.43 -- 24 MR. SMITH: No; that's not my order. 25 MR. SCHOENHAUS: That was ours, the</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 141</p> <p>1 43 percent, Your Honor. 2 THE COURT: Oh. 3 MR. SCHOENHAUS: Theirs is the ten 4 studies. 5 MR. SMITH: My order says: 6 Defendants' motion is granted as to the specific 7 opinion of Dr. Rebecca Smith-Bindman regarding 8 her systematic review and meta-analysis. 9 THE COURT: I don't know what you're 10 reading from. I don't see that language at all. 11 MR. SMITH: You got it on your -- 12 I'll give you another one. 13 THE COURT: Is that the curative 14 instruction? 15 MR. SMITH: No. I thought we were on 16 the order. 17 THE COURT: We are on the order, but 18 where is that? 19 MR. SMITH: I gave it to Mr. Pavlo. 20 THE COURT: Well, I must have it then 21 because I have the two. 22 MR. SMITH: Yeah, you got it. But 23 we'll give you another one. There you go. He 24 just handed you another one. 25 THE COURT: I don't need another one.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 143</p> <p>1 MR. SMITH: And the calculation she 2 did about the ten studies. 3 THE COURT: Okay. 4 MR. SMITH: And then the calculation 5 that she did about those calculations. You 6 struck all that. 7 THE COURT: No. 8 MR. SMITH: I can show you. Just 9 give me a second. 10 THE COURT: If that's what it sounded 11 like, I don't think that's what I intended. I 12 think my intention was to just strike the 13 43 percent. 14 MR. SMITH: Well, let me get -- 15 THE COURT: And I think I 16 specifically said that at least twice. 17 MR. SMITH: No. I don't think you 18 did, Your Honor. 19 MS. O'DELL: You did, Your Honor. We 20 were very focused on that obviously because this 21 is important from our perspective. You said -- 22 THE COURT: You wanted to say 43 23 percent increase, and I said no, you can't do 24 that. That's a statistic that you need a 25 statistician for. Your expert can rely on</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 142</p> <p>1 Yes. Okay. 2 MR. SMITH: And that's the opinion 3 that you struck. 4 MS. O'DELL: Your Honor, when you're 5 ready, we can lay out the reasons we think 6 that's too broad and unclear. 7 THE COURT: Sure. Go ahead. 8 MS. O'DELL: Well, there's no -- we 9 understand that -- 10 THE COURT: I thought I only forbade 11 the 43 percent. 12 MS. O'DELL: That's our 13 understanding. 14 MR. SMITH: No. You -- 15 THE COURT: I mean, I said that a 16 couple of times. I said she could testify to 17 everything else. The statistician, I have no 18 problem with the statistician indicating a 19 direction or -- but the specific calculation of 20 43 percent, if they want that in, they have to 21 call the statistician. 22 MR. SMITH: So you did, Judge. And 23 let me just show you, remember I put -- her 24 opinion was on a slide about the ten studies. 25 THE COURT: Uh-huh.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 144</p> <p>1 hearsay and on opinions not seen by the jury, 2 but not when you come down to a specific 3 mathematical calculation that hasn't been 4 explained by anyone except the statistician who 5 wasn't called. 6 MS. O'DELL: Yes, sir. 7 MR. SMITH: Judge -- 8 MS. O'DELL: We understand that that 9 was your ruling, Your Honor, and that all of her 10 other opinions remained. 11 THE COURT: Yes. 12 Let me find out from Mr. Smith why. 13 MR. SMITH: I'm not attacking -- I'm 14 not moving for any of her other opinions other 15 than, if you recall, there were two opinions. 16 There was one relating to how the confidence 17 intervals and the relative risks were calculated 18 for the ten studies. Remember she had them on a 19 chart up there? 20 THE COURT: Uh-huh. 21 MR. SMITH: And I showed you the 22 testimony where she said: You'll have to ask 23 Jane Hall. And then she took calculations from 24 those calculations and did the 44 percent 25 calculation.</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 145</p> <p>1 I moved to strike both the ten study 2 calculations and the 44 percent for the same 3 reason. She couldn't explain how any of those 4 calculations were derived because they were Jane 5 Hall's calculations. That's all I'm asking. 6 And that's what you ruled upon. So you're only 7 focused on one of those documents. 8 THE COURT: Yeah. But you don't say 9 that. 10 MR. SMITH: No. But I do say it. 11 And what I'm looking for is the exhibit that I 12 used to show you -- 13 THE COURT: Well, just give me the 14 notes of testimony. Just show me in the notes 15 of testimony. 16 MR. SMITH: Can we do it in the 17 morning because I left it back at the hotel? 18 THE COURT: Yeah. 19 MR. SMITH: Okay. 20 THE COURT: Of course, that means 21 we'll have to start this over again because I 22 won't remember tomorrow where we left off. Then 23 again, I might. Who knows. We'll see. 24 MR. SMITH: I'll bring it tomorrow 25 and show you the notes of testimony, Judge.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 147</p> <p>1 and a half to three hours. I don't know, 2 though. I'm going to try to cut it back. But 3 it's possible that we can finish on Wednesday. 4 And I didn't know if you wanted to -- maybe the 5 jury just can't stay past 4:30; and if that's 6 the case, I get it, and I'm not asking. But if 7 you give gave them a little notice, if we wanted 8 to try to finish on Wednesday to see if they 9 plan to go a little bit later and we all hustled 10 to try to get done, I think it's doable. But 11 obviously things change quickly in our business, 12 and you know that better than anybody. But 13 that's our plan. And we got a little bit, like 14 five minutes worth of testimony that you let in 15 on Dr. Hopkins, the guy from the UK. And that's 16 it. We rest. 17 THE COURT: And then is there going 18 to be some kind of rebuttal? 19 MS. O'DELL: Your Honor, we're still 20 considering that. After today with 21 Dr. Sanchez's sort of expansive testimony beyond 22 what we had expected, we need to give that some 23 thought. 24 THE COURT: Okay. 25 MR. SMITH: So that's the plan.</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 146</p> <p>1 THE COURT: Okay. 2 MR. SMITH: Because I got them all 3 highlighted. 4 MR. SCHOENHAUS: We have it. 5 THE COURT: Anything else we can do 6 today? 7 MR. SMITH: I don't think so. Do you 8 want to talk scheduling just to get a preview of 9 what we think is coming, or is that not -- 10 THE COURT: No. Go ahead. You have 11 this witness, and then what else? 12 MR. SMITH: Yeah. So tomorrow, we 13 think we'll have this witness off the stand in 14 less than an hour tomorrow morning. I don't 15 know how long his cross is going to be. We'll 16 have Diette waiting outside. We'll finish him 17 up. I think direct should be somewhere around 18 an hour and a half. We'll pass him for cross. 19 And that will only leave us one more witness to 20 call, which is Dr. Boyd. I'll have him waiting 21 outside. If we get to him, that will be awfully 22 optimistic. But I'll have him here. If not, 23 assuming we finish Diette tomorrow, we could 24 start with him first thing on Wednesday morning. 25 I think the direct will be somewhere around two</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 148</p> <p>1 THE COURT: And we're off on 2 Thursday. 3 MR. SMITH: Yeah. 4 THE COURT: That brings us to Friday. 5 MR. SMITH: Yeah. And one of the 6 things we talked about -- and I just don't know 7 if it's doable, and I'm not being disrespectful 8 of Thursday, and I disclosed my own situation -- 9 but I don't know if it's possible if some of the 10 members of the respective team could meet with 11 you on Thursday for a charging conference. And 12 even if we finished with Dr. Boyd on Friday 13 morning, we could go right into closings on 14 Friday. 15 MS. O'DELL: Your Honor, we would not 16 be in a position to do that. 17 THE COURT: Well, what would be 18 helpful would be if you have proposed points for 19 charge. The sooner you submit them, I could 20 start looking over them. And I assume you've 21 already compared them to see if you can reach 22 agreement. 23 MR. SCHOENHAUS: Right. So the 24 original charge that we proposed to start the 25 case, we are working on revising.</p>

<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 149</p> <p>1 THE COURT: That's kind of an Amish 2 look. Have you seen yourself in the mirror 3 lately? 4 (Laughter.) 5 MR. SCHOENHAUS: What about that? 6 THE COURT: No. No. That's Amish. 7 That's a Band-Aid. 8 MR. SCHOENHAUS: Can I go with the 9 transparent one? 10 THE COURT: Go ahead. 11 MR. SCHOENHAUS: The original 12 proposal we made, we are in the process of 13 revising because we are going to voluntary 14 nonsuit some of our claims. 15 THE COURT: Okay. 16 MR. SCHOENHAUS: And we have not 17 gotten that new proposed charge to the defense. 18 We intend to do that, I believe, tomorrow. 19 THE COURT: Well, I'm not putting you 20 under the gun. I'm just saying that if you want 21 to make progress, letting me look them over 22 ahead of time, especially if you put on some 23 more boring witnesses who only speak in jargon. 24 I know it was her first time in court, but she 25 said some -- some things that were just</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 151</p> <p>1 THE COURT: What's the 230.1 motion? 2 MR. SMITH: It's the compulsory 3 nonsuit. We want to make some arguments that 4 certain claims -- 5 THE COURT: First it was DV. Now 6 it's code sections. Okay. 7 MR. SMITH: I got this one right this 8 time, so. 9 (Laughter.) 10 MR. SMITH: Anyway. So I take it on 11 Friday we will not close, is that -- is that -- 12 THE COURT: I don't know. I don't 13 know what we're going to do. But it sounds like 14 probably not. 15 MR. SMITH: Okay. 16 THE COURT: It sounds like it would 17 be Tuesday for closings. 18 MR. SMITH: Okay. Well, maybe things 19 will move more quickly, and that possibility 20 will -- 21 THE COURT: And remember, Wednesday 22 one of the jurors has a wedding. 23 MR. SMITH: Right. 24 MR. SCHOENHAUS: Right. Next 25 Wednesday.</p>
<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 150</p> <p>1 indecipherable. 2 But it will give me something to do 3 up here, you know, read the proposed points for 4 charge. All right. 5 MR. SCHOENHAUS: That makes good 6 sense. We'll get that in your hands and defense 7 counsels' hands I believe for tomorrow. 8 As to Mr. Smith's proposal, while we 9 would be very optimistic to do that, too, 10 unfortunately, Ms. Winkler and myself are 11 observant on Thursday, and that boxes us out all 12 day. And obviously, we are the PA attorneys and 13 we're dealing with PA law here on the charge. 14 THE COURT: Okay. 15 MR. SCHOENHAUS: So we don't want to 16 handicap our Alabama colleagues. So that's just 17 unworkable as a suggestion, unfortunately. 18 THE COURT: Okay. That's fine. 19 MR. SMITH: So, Judge, we also, and 20 maybe it sounds like Friday will be the day for 21 this, but we've got the 230.1 motion, too, that 22 we wanted to get some time with you on. We made 23 the motion. We filed a brief. I don't know if 24 you had a chance to read it. We served the 25 other side.</p>	<p>- KLEINER -vs- JOHNSON & JOHNSON - Page 152</p> <p>1 THE COURT: Unless you want to get 2 rid of that juror. I mean, somebody who cannot 3 participate in deliberations, maybe you want to 4 just excuse her before the jury goes out to 5 deliberate, and then they can deliberate on 6 Wednesday. Just something to think about. 7 Okay. 8 MR. SCHOENHAUS: Cross that bridge. 9 THE COURT: No. We're crossing that 10 bridge before the jury goes out to deliberate. 11 MR. SCHOENHAUS: Yeah. 12 THE COURT: Yes. Okay. 13 MR. SMITH: Understood. 14 THE COURT: All right. We'll see you 15 tomorrow. 16 MS. O'DELL: Judge -- 17 THE COURT: Oh. 18 MS. O'DELL: -- just in case, we were 19 able to find the transcript on 20 Dr. Smith-Bindman, just to back up, see if we 21 could get that done. And on August the 30th, 22 the Court addressed the motion. And on page 155 23 of the transcript, you say: "I'm not going to 24 strike her testimony. She has a reasonable 25 basis for her other conclusions that she stated</p>

- KLEINER -vs- JOHNSON & JOHNSON - Page 153

1 to the jury. She can say that there's an
2 increased likelihood based on those studies, but
3 no numbers. No 43 percent. Nothing that was
4 derived from Jane Hall."
5 And I think that's the ruling that
6 Your Honor was remembering, and we think our
7 order reflects Your Honor's ruling and --
8 **THE COURT:** Okay. So it wasn't just
9 the 43 percent. "No numbers" is what I said.
10 **MS. O'DELL:** That's right. And I
11 think that -- I think that our order reflects
12 that ruling.
13 **THE COURT:** Well, I'll give you a
14 chance. You wanted to go through the
15 transcripts.
16 **MR. SMITH:** Yeah. I'm not sure we're
17 that far apart. But I want to show you what
18 that means and tie it to why I think the
19 language in my order is appropriate. And I'll
20 bring my stuff tomorrow and be ready to explain
21 to you why.
22 **THE COURT:** Okay. See you tomorrow.
23 - - -
24 (Court adjourned at 4:42 p.m.)
25 - - -

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1 C E R T I F I C A T I O N
2
3 I hereby certify that the proceedings
4 and evidence are contained fully and accurately
5 in the stenographic notes taken by me on the
6 trial of the above cause, and that this copy is
7 a correct transcript of the same.
8 I further certify that I am not a
9 relative or employee of any attorney or counsel
10 employed in this case.
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